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No. 35]

NEW DELHI, AUGUST 22—AUGUST 28, 2004, SATURDAY/SRAVANA 31—BHADRA 6, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 20 अगस्त, 2004

का.आ. 2076.—सरकारी भवन (अनाधिकृत कब्जे की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा नीचे सारणी के कालम (1) में उल्लिखित अधिकारी को, भारत सरकार का राजपत्रित अधिकारी होने के कारण, उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी के पद पर नियुक्त करती है और एतद्वारा यह निर्देश देती है कि उपर्युक्त अधिकारी उक्त सारणी के कालम (2) में विनिर्दिष्ट सरकारी भवनों की श्रेणियों के संबंध में उपर्युक्त अधिनियम के अंतर्गत सम्पदा अधिकारियों की

प्रदत्त शक्तियों का प्रयोग करते हुए दिए गए कार्यों का निर्वहन करेगा :—

सारणी

नाम तथा रैंक	सरकारी भवनों की श्रेणियाँ
श्री बिराट हाण सुब्बा, उप समादेष्टा, महानिदेशालय असम राइफल्स, शिलांग—793011	राज्यों और संघ शासित क्षेत्र असम, मेघालय, नागालैण्ड, मणिपुर, सिक्किम, अरुणाचल प्रदेश, मिजोरम, नई दिल्ली तथा त्रिपुरा व असम राइफल्स के नियंत्रणाधीन सभी सरकारी भवन

[सं. ए. IV-ए/354-2003/बी.एच.एस.]
सतीश चन्द्र, अनुभाग अधिकारी (पी.एफ. 4)

MINISTRY OF HOME AFFAIRS

New Delhi, the 20th August, 2004

S.O. 2076.— In exercise of the powers conferred by Section 3 of the Public premises (EVICTION of Unauthorized occupation) Act 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in the column 1 of the table below, being a Gazetted Officer of the Government of India, to be Estate Officer for the purpose of the said Act and hereby directs that the said officer exercise the powers conferred, and perform the duties imposed, on Estate Officers under the said Act in respect of the Categories of Public Premises specified in Column (2) of the said table :—

TABLE

Name and Rank	Categories of the Public premises
Shri Birat Hang Subba, Deputy Commandant, Directorate General Assam Rifles, Shillong-793011	All public premises held on charge of Assam Rifles in the States and the Union Territories of Assam, Meghalaya, Nagaland, Manipur, Sikkim, Arunachal Pradesh, Mizoram, New Delhi and Tripura.

[No. A-IV-A/354-2003/BHS]

SATISH CHANDER, Section Officer (PF-IV)

कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 17 अगस्त, 2004

का.आ. 2077.— केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए माननीय उच्चतम न्यायालय, इलाहाबाद का आदेश दिनांक 19-12-2003 जो पंजाब नेशनल बैंक बनाम उत्तर प्रदेश राज्य एवं अन्य रिट याचिका अपराधिक विविध संख्या 8046/2003 में पारित हुआ के द्वारा थाना छत्ता, आगरा, उत्तर प्रदेश, के अपराध संख्या 174/2003 भारतीय दण्ड संहिता की धारा 489-A, 489-B, 489-C, 489-D, एवं 489-E के अधीन एवं संसक्त प्रयत्नों, दुष्टेरणों और पड्यन्त्रों या उन्मा संव्यवहार से अनुक्रम में किये गए एक या अधिक अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण उत्तर प्रदेश पर करती है।

[सं. 228/57/2004-ए वी डी-II]

बी. राजगोपाल नायडू, निदेशक

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSION

(Department of Personnel and Training)

New Delhi, the 17th August, 2004

S.O. 2077.— In exercise of the powers conferred by sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government as per the order 19-12-2003 of the Hon'ble Allahabad High Court, passed in case Punjab National Bank Vs State of UP and others Criminal (Misc.) Writ Petition No. 8046 of 2003, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the state of Uttar Pradesh for investigation of offences under Sections 489-A, 489-B, 489-C, 489-D and 489 E of Indian Penal Code (Act No. 45 of 1860) and attempts, abetments and conspiracies in relation to or in connection with the one or more of the offences mentioned above and any other offence or offences arising out of the same facts, relating to crime No. 174/2003 of PS-Chatta, Agra (Uttar Pradesh).

[No. 228/57/2004-AVD-II]

B. RAJAGOPAL NAIDU, Director

नई दिल्ली, 20 अगस्त, 2004

का.आ. 2078.— केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 72 पीसीआर 2004 दिनांक 5 मई, 2004 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री बी. विजय कुमार, पूर्व वरिष्ठ स्वास्थ्य निरीक्षक, रेलवे स्वास्थ्य यूनिट, अशोक पुरम, मैसूर और रेलवे के अज्ञात पदाधिकारियों सहित अन्य अज्ञात व्यक्तियों तथा किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध 2-3-1994 से 1-3-2002 की अवधि के दौरान श्रीमती के. एम. सरदम्मा के भविष्य निधि लेखा से कपटपूर्वक 1.56 लाख रुपये की धनराशि का आहरण करके उसे धोखा देने के कारण भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी सपठित धारा 420, 468, 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13 (2) सपठित धारा 13 (1)(डी) के अधीन दंडनीय अपराधों और उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत उक्त अपराधों से संबंधित अथवा संसक्त किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है :—

[सं. 228/58/2004-ए वी डी-II]

बी. राजगोपाल नायडू, निदेशक

New Delhi, the 20th August, 2004

S.O. 2078.— In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) Central Government with the consent of the State Government of Karnataka vide Notification No. HD 72 PCR/2004 dated 5th May 2004, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for registration of the case and investigation of offences punishable under section 120-B read with 420, 468, 472 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, against Shri B. Vijay Kumar (former senior Health Inspector, Railway Health Unit, Ashok Puram, Mysore) and unknown others, including unknown officials of the Railways for cheating Mrs. K.M. Saradamma of Rs. 1.56 Lakhs by fraudulently withdrawing the amount from her PF account during the period 2-3-1994 to 1-3-2002 and any other public servants or persons in relation to, or in connection with the said offences, and any other offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/58/2004-AVD-II]

B. RAJAGOPAL NAIDU, Director

विदेश मंत्रालय

(सी.पी.वी. डिविजन)

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2079.— राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का राजदूतावास, जागरेव में श्री स्नेहाशीश मुखर्जी को 05-08-2004 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2004]

उपेन्द्र सिंह रावत, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 5th August, 2004

S.O. 2079.— In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri Snehashish Mukerji, Assistant in the Embassy of India, Zagreb to perform the duties of Assistant Consular Officer with effect from 05-08-2004.

[No. T-4330/01/2004]

U.S. RAWAT, Under Secy. (Cons.)

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2080.— राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान

कौंसलावास, टोरोंटो में श्री सुरेंद्र बाबू को 05-08-2004 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2004]

उपेन्द्र सिंह रावत, अवर सचिव (कौंसुलर)

New Delhi, the 5th August, 2004

S.O. 2080.— In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri Surender Baboo, Assistant in the Consulate General of India, Toronto to perform the duties of Assistant Consular Officer with effect from 05-08-2004.

[No. T-4330/01/2004]

U.S. RAWAT, Under Secy. (Cons.)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 26 मार्च, 2004

(आयकर)

का.आ. 2081.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “चीफ मिनिस्टर्स रिलीफ फण्ड, मुम्बई” को वर्ष 2002-2003 से 2004-2005 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है :
- (ii) कर-निर्धारिती उपयुक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा ओम्पत्ति है जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 117/2004/फा. सं. 197/35/2004-आयकर नि.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 26th March, 2004

(INCOME TAX)

S. O. 2081.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Chief Minister's Relief Fund, Mumbai" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 117/2004/F.No. 197/35/2004-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली 26 मार्च, 2004

(आयकर)

का. आ. 2082.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "वेस्ट बंगाल काउंसिल फॉर चाइल्ड वेलफेयर, कोलकाता" को वर्ष 2003-2004 से

2005-2006 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात्:—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगा, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 118/2004/फा. सं. 197/201/2003-आयकर नि.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 26 March, 2004

(INCOME TAX)

S. O. 2082.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "West Bengal Council for Child Welfare, Kolkata" for the purpose of the said sub-clause for the assessment year 2003-2004 to 2005-2006 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.)

for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 118/2004/F.No. 197/201/2003-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 29 मार्च, 2004

(आयकर)

का. आ. 2083.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "एमैलगेमेटेड तमिलनाडु शेयर्स आफ पोस्ट वार सर्विसेज रिकंस्ट्रक्शन फंड एण्ड स्पेशल फंड फार रिकंस्ट्रक्शन एण्ड रिहैबिलिटेशन आफ एक्स-सर्विसे-मेन, चेन्नई" को वर्ष, 2001-2002 से 2003-2004 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक दंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति

के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में अतिरिक्त राशियां और परिसम्पतियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 125/2004/फा. सं. 197/5/2004-आयकर नि.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 29th March, 2004

(INCOME TAX)

S. O. 2083.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Amalgamated Tamil Nadu Shares of Post War Services Reconstruction Fund and special Fund for Reconstruction and Rehabilitation of Ex-Servicemen. Chennai" for the purpose of the said sub-clause for the assessment years 2001-2002 to 2003-2004 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other-wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 125/2004/F.No. 197/5/2004-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2004

(आयकर)

का. आ. 2084.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा "इंडियन इन्स्टीट्यूट ऑफ मैनेजमेंट, लखनऊ" को वर्ष 2002-2003 से 2004-2005 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वर जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह आदेश किसी ऐसी आय के संबंध में लागू नहीं होगा, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 130/2004/फा. सं. 197/85/2003-आई.टी.ए.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 5th April, 2004

(INCOME TAX)

S.O. 2084.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Indian Institute of Management, Lucknow" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and

exclusively to the objects for which it is established;

- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 130/2004/F.No. 197/85/2003-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2004

(आयकर)

का. आ. 2085.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "नेशनल एसोसिएशन फार दी बलाईड, इंडिया मुम्बई" को वर्ष 2002-2003 से 2004-2005 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो

जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 131/2004/फा. सं. 197/34/2004-आई.टी.ए.-1]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 5th April, 2004

(INCOME TAX)

S. O. 2085.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "National Association for the Blind, India, Mumbai" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 131/2004/F.No. 197/34/2004-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2004

(आयकर)

कां. आ. 2086.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "ज्वाइंट प्लांट कमेटी, कोलकाता" को वर्ष 2002-2003 से 2004-2005 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह आदेश किसी ऐसी आय के संबंध में लागू नहीं होगा, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 132/2004/फा. सं. 197/7/2004-आई.टी.ए.-1]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 5th April, 2004

(INCOME TAX)

S. O. 2086.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Joint Plant Committee, Kolkata" for the purpose of the said sub-clause for the assessment years

2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 132/2004/F.No. 197/7/2004-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 28 जून, 2004

(आयकर)

का. आ. 2087.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा “एशियन इंस्टीट्यूट ऑफ ट्रांसपोर्ट डेवलपमेंट, नई दिल्ली” को वर्ष 2005-2006 से 2007-2008 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जैसे—जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान

से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 178/2004/फा. सं.197/51/2004-आई.टी.ए.-1]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 28th June, 2004

(INCOME TAX)

S. O. 2087. —In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Asian Institute of Transport Development, New Delhi” for the purpose of the said sub-clause for the assessment years 2005-2006 to 2007-2008 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 178/2004/F.No. 197/51/2004-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 7 जुलाई, 2004

(आयकर)

का. आ. 2088.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "इंडियन काउंसिल फार रिसर्च आन इंटरनेशनल इकोनॉमिक रिलेशंस, नई दिल्ली" को वर्ष 2004-2005 से 2006-2007 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 196/2004/फा. सं. 197/172/2003-आई.टी.ए.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 7th July, 2004

(INCOME TAX)

S. O. 2088.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of section 10 of the

Income-tax Act, 1961 (43 of 1961), the Central Government hereby "notifies the Indian Council for Research on International Economic Relations, New Delhi" for the purpose of the said sub-clause for the assessment years 2004-2005 to 2006-2007 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 196/2004/F.No. 197/172/2003-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 21 जुलाई, 2004

(आयकर)

का. आ. 2089.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "द क्लीयरिंग एंड फारवर्डिंग अनप्राटेक्टेड डॉक लेबर बोर्ड, मुम्बई," को वर्ष 1996-1997 से 1998-1999 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि

(जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 202/2004/फा. सं. 197/121/2003-आई.टी.ए.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 21st July, 2004

(INCOME TAX)

S. O. 2089.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Clearing & Forwarding Unprotected Dock Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 1996-1997 to 1998-1999 subject to the following conditions, namely:—

- (i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in

accordance with the provisions of the Income-tax Act, 1961;

- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 202/2004/F.No. 197/121/2003-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 11 अगस्त, 2004

(आयकर)

का. आ. 2090.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "श्री सत्य साई सेन्ट्रल ट्रस्ट, बृन्दावन, बंगलौर," को वर्ष 2005-2006 से 2007-2008 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 208/2004/फा. सं. 197/66/2004-आई.टी.ए.-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 11th August, 2004

(INCOME TAX)

S. O. 2090.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Sri Sathya Sai Central Trust, Brindavan, Bangalore” for the purpose of the said sub-clause for the assessment years 2005-2006 to 2007-2008 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 208/2004/F.No. 197/66/2004-ITA-I]

DEVISHARAN SINGH, Under Secy.

नई दिल्ली 11 अगस्त, 2004

(आयकर)

का. आ. 2091.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा “टी.टी. रगनाथन क्लिनिकल रिसर्च फाउंडेशन, चेन्नई” को वर्ष 2002-2003 से 2004-2005 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया

तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

- (ii) कर-निर्धारिती उपर्युक्त कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 209/2004/फा. सं. 197/53/2004-आई.टी.ए.-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 11th August, 2004

(INCOME TAX)

S. O. 2091.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “T.T. Raganathan Clinical Research Foundation, Chennai” for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 209/2004/F.No. 197/53/2004-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 11 अगस्त, 2004

(आयकर)

का.आ. 2092.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा “द रेलवे गुड्स क्लियरिंग एण्ड फोरवर्डिंग इस्टैब्लिशमेंट लेबर बोर्ड मुम्बई” को वर्ष 1996-1997 से 1998-1999 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 210/2004/फा. सं.197/116/2003-आई.टी.ए.-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 11th August, 2004

(INCOME-TAX)

S. O. 2092.—In exercise of powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “The Railway Goods Clearing & Forwarding Establishment Labour Board, Mumbai” for the purpose of the said sub-clause for the assessment years 1996-1997 to 1998-1999 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 210/2004/F.No. 197/116/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 11 अगस्त, 2004

(आयकर)

का.आ. 2093.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा “दि रेलवे गुड्स क्लियरिंग एंड फॉरवर्डिंग एस्टेब्लिशमेंट लेबर बोर्ड, मुम्बई” को वर्ष 1999-2000 से 2001-02 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा;
- (v) विघटन की स्थिति में अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 212/2004/फा. सं. 197/117/2003-आ.क.नि.-1]

देवी शरण सिंह, अवसर सचिव

New Delhi, the 11th August, 2004

(INCOME-TAX)

S.O. 2093.—In exercise of the powers conferred by the clause (23-C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “The Railway Goods Clearing & Forwarding Establishment Labour Board, Mumbai” for the purpose of the said Sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other-wise than in any one or more of the forms of modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 212/2004/F. No. 197/117/2003 ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 11 अगस्त, 2004

(आयकर)

का.आ. 2094.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा “द कांग्रीगेशन आफ द फ्रांसिस्कन सिस्टर्स ऑफ द प्रेजेन्टेशन आफ द ब्लेस्ड वर्जिन मेरी, कोयम्बटूर” को वर्ष 2002-2003 से 2004-2005 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात्:—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि, किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति

के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग में लेखा पुस्तिकाएं नहीं रखी जाती हों;

- (iv) कर निर्धारिता आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और पारसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 211/2004/फा. सं. 197/66/2003-आई.टी.ए.-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 11th August, 2004

(INCOME-TAX)

S.O. 2004.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Congregation of the Franciscan Sisters of the Presentation of the Blessed Virgin Mary, Coimbatore" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other-wise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 211/2004/F. No. 197/66/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2095.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उपधारा (1) के खंड (ड) द्वारा, प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा, श्रीमती चित्रा चोपड़ा, सचिव, शहरी रोजगार एवं गरीबी उन्मूलन विभाग, नई दिल्ली को तत्काल प्रभाव से और अगले आदेश तक श्री ए. एन. तिवारी के स्थान पर राष्ट्रीय आवास बैंक के निदेशक मंडल में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 7/15/2000-बी.ओ.-I]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 12th August, 2004

S.O. 2095.—In exercise of the powers conferred by clause (e) of Sub-section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Mrs. Chitra Chopra, Secretary, Department of Urban Employment and Poverty Alleviation, New Delhi as a director on the Board of Directors of National Housing Bank with immediate effect and until further orders in place of Shri A. N. Tiwari.

[F. No. 7/15/2000-B.O. I]

RAMESH CHAND, Under Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 13 अगस्त, 2004

(आयकर)

का.आ. 2096.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) संगठन अपने अनुसंधान कार्यक्रमों के लिए अलग लेखा बहियों का रख-रखाव करेगा।
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स राजकोट कैंसर सोसाइटी, श्रीमती बसन्तबेन आर. देसाई कैंसर रिसर्च सेंटर, राइया रोड, राजकोट	1-4-2001 से 31-3-2004

टिप्पणी :—(i) उपर्युक्त शर्त (i) “संघ” के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी

- (ii) अधिसूचित संगठन को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 214/2004/फ. सं. 203/58/2003-आयकर नि.-II]

निधि सिंह, अवर सचिव

DEPARTMENT OF REVENUE

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 13th August, 2004

(INCOME-TAX)

S.O. 2096.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category “Institution” subject to the following conditions:—

- (i) The organization shall maintain separate books of accounts for its research activities.

- (ii) The notified Institution shall furnish the Annual Return of its Scientific research activities to the Secretary, Department of Scientific & Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemption), Aayakar Bhawan, 9th & 10th Floor, Sector 3, Vaishali, Ghaziabad (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Rajkot Cancer Society, Smt. Vasantben R. Desai Cancer Research Centre, Raiya Road, Rajkot	1-4-2001 to 31-3-2004

Notes :—(i) Condition (i) above will not apply to the organization categorized as “Association”.

- (ii) The notified Institution is advised to apply in triplicates as well in advance for further renewal of the approval to the Central Government through the Commissioner of Income tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 214/2004/F. No. 203/58/2003/ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 13 अगस्त, 2004

(आयकर)

का. आ. 2097.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा

(1) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) संगठन अपने अनुसंधान कार्यकलापों के लिए अलग लेखा वक्तियों का रख-रखाव करेगा।
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31, मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली 110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवा तल, कलकत्ता 700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स मद्रास डायबिटीज रिसर्च, फाउंडेशन '4' कोनरान स्मिथ रोड, गोपालपुरम, चेन्नई-600086	1-4-2002 से 31-3-2005

टिप्पणी :—(i) उपर्युक्त शर्त (i) "संघ" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी

- (ii) अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 213/2004/फा. सं. 203/48/2003-आयकर नि.-II]

निधि सिंह, अवर सचिव

INCOME TAX

New Delhi, the 13th August, 2004

S.O. 2097.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period

mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Association" subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities.
- (ii) The notified Institution shall furnish the Annual Return of its Scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemption), Aayakar Bhawan, 9th & 10th Floor, Sector 3, Vaishali, Ghaziabad (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Madras Diabetes Research Foundation, 4, Conran Smith Road, Gopalapuram, Chennai-600086	1-4-2002 to 31-3-2005

Notes :—(i) Condition (i) above will not apply to the organization categorized as "Association"

- (ii) The notified Association is advised to apply in triplicates as well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 213/2004/F. No. 203/48/2003/ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 17 अगस्त, 2004

का.आ. 2098.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2001-02 से नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ड के स्पष्टीकरण (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है ; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसा खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/उपक्रम है :—

मैसर्स एन्नोर पोर्ट लिमिटेड, चेन्नई, 15, कस्तूरिरंगन रोड, अलवरपेट, चेन्नई - 600120; चेन्नई के निकट एन्नोर पत्तन के प्रबंधन एवं प्रचालन की परियोजना हेतु।

[अधिसूचना सं. 217/2004/फा.सं.205/3/2003-आयकर नि. II]

निधि सिंह, अवर सचिव

New Delhi, the 17th August, 2004

S. O. 2098.—It is notified for general information that the enterprise/undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Assessment Year 2001-02.

2. The approval is subject to the conditions that —

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by Sub-rule (6) of Rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962.

3. The enterprise/undertaking approved is —

M/s Ennore Port Ltd. Chennai, 15, Kasturirangan Road, Alwarpet, Chennai-600120, for their project of managing and operation of Ennore Port near Chennai.

[Notification No. 217/2004/F. No. 205/3/2003-ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 17 अगस्त, 2004

का.आ. 2099.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-03 से कर निर्धारण वर्ष 2018-19 तक अर्थात् मुख्य सचिव, अंडमान एवं निकोबार प्रशासन द्वारा प्रतिनिधित्व भारत के राष्ट्रपति तथा मैसर्स सूर्यचक्र पावर कार्पोरेशन लिमिटेड अथवा पूर्ववर्ती के साथ निष्पन्न दिनांक 20-11-1997 के विद्युत क्रय करार की समाप्ति की अवधि तक उपर्युक्त करार की शर्तों के उल्लंघन के दशा में नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :

(i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ड के स्पष्टीकरण (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है ; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2डके उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/उपक्रम है :—

मेसर्स सूर्यचक्र पावर कॉर्पोरेशन प्रा. लिमिटेड, 3-6-725, गली नंबर 11, हिमायत नगर, हैदराबाद-500029 को बम्बू फ्लैट, साउथ अंडमान द्वीप समूह, अंडमान एवं निकोबार द्वीप समूह स्थित उनके 20 मेगावाट डीजल आधारित विद्युत संयंत्र देना।

[अधिसूचना सं. 218/2004/फा.सं.205/56/2001-आयकर नि. II]

निधि सिंह, अवर सचिव

New Delhi, the 17th August, 2004

S.O. 2099.—It is notified for general information that the approval to enterprise/undertaking, listed at para (3) below has been renewed by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Assessment Year 2002-03 to Assst. Year 2018-19 i.e. upto the end of the period of power purchase agreement dated 20-11-1997 entered into with the President of India represented by the Chief Secretary, Andaman & Nicobar Administration and M/s Suryachakra Power Corporation Limited or earlier, in the event of violation of the terms of the agreement aforesaid.

2. The approval is subject to the conditions that —

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by Sub-rule (6) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax rules, 1962.

3. The enterprise/undertaking approved is —

M/s Suryachakra Power Corporation Private Limited, 3-6-725, Street No.11, Himayatnagar, Hyderabad-500029 for their project of 20 MW Diesel based Power Plant at Bambooflat, South

Andaman Island, A&N Islands.

[Notification No. 216/2004/F. No. 205/56/2001-ITA-III]

NIDHI SINGH, Under Secy.

न. जी, 17 अगस्त, 2004

का.आ. 2100. सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2004-05 से नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ड के स्पष्टीकरण (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है ; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2डके उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2डके उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

(iii) यह उद्यम/उपक्रम आयकर अधिनियम, 1961 की धारा 80छक (4)(IV)(क) के प्रावधानों के अनुसार 31 मार्च, 2006 अथवा उससे पहले नीचे पैरा 3 में उल्लिखित परियोजना से विद्युत का उत्पादन शुरू करता है। ऐसा न करने पर यह अनुमोदन वापस ले लिया जाएगा।

3. अनुमोदित उद्यम/उपक्रम है :—

मेसर्स अबन पावर कम्पनी लिमिटेड, जनप्रिय क्रेस्ट, 113, पैन्थियन रोड, एगमोर, चेन्नई 600008 को तिरुविदायमारुत तालुक, तन्जौर जिला तमिलनाडु में कुट्टालम के निकट करुपपुर गांव में 119.8 मेगावाट (113.2 मेगावाट कंटेक्ट केपेसिटी) गैस आधारित कम्बाइंड साइकिल पावर प्रोजेक्ट के लिए।

[अधिसूचना सं. 218/2004/फा.सं.205/1/2004-आयकर नि. II]

निधि सिंह, अवर सचिव

New Delhi, the 17th August, 2004

S.O. 2100.—It is notified for general information that the enterprise/undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Assessment Year 2004-05.

2. The approval is subject to the conditions that —

- (i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—
 - (a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or
 - (b) fails to maintain books of account and get such accounts audited by an accountant as required by Sub-rule (6) of Rule 2E of the Income-tax Rules, 1962; or
 - (c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962.
- (iii) the enterprise/undertaking starts generating power from the project mentioned in para (3) below on or before 31st day of March, 2006 as per provisions of Section 80IA(4)(iv)(a) of the Income-tax Act, 1961 failing which the approval shall be withdrawn

3. The enterprise/undertaking approved is —

M/s Aban Power Company Ltd. Janpriya Crest, 113, Pantheon Road, Egmore, Chennai-600008 for their 119.8 MW (113.2 MW Contracted Capacity) Gas based combined Cycle Power Project in Karuppur Village, near Kuttalam in Thiruvudaimarathur Taluk, Tanjore District, Tamil Nadu. (F. No. 205/1/2004/ITA-II).

[Notification No. 218/2004/F.No. 205/1/2004-ITA-II]

NIDHI SINGH, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 17 अगस्त, 2004

का.आ. 2101.—रूपण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 (1986 का 1) की धारा 6 के साथ पठित धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा, उच्च न्यायालय, छत्तीसगढ़ के सेवानिवृत्त न्यायाधीश श्री जस्टिस पी. सी.

नायक को पदभार ग्रहण करने की तारीख से 29 दिसम्बर, 2004 तक के लिए अथवा औद्योगिक एवं वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण के समापन तक अथवा अगले आदेश तक, जो भी सबसे पहले हो, औद्योगिक एवं वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण के अध्यक्ष के रूप में पुनः नियुक्त करती है।

[फा.सं. 20(2)/2002-आईएफ-II(भाग-II)]

बी.डी. बेरवाल, अवर सचिव

DEPARTMENT OF ECONOMIC AFFAIRS (Banking Division)

New Delhi, the 17th August, 2004

S.O. 2101.—In exercise of the powers conferred by Section 5 read with Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby re-appoints Shri Justice P. C. Naik, Retired Judge, High Court of Chattisgarh, as the Chairman, Appellate Authority for Industrial and Financial Reconstruction (AAIFR), till 29th December, 2004 with effect from the date of assumption of the charge of the post or till the abolition of AAIFR or until further orders whichever is the earliest.

[F.No. 20(2)/2002-IF-II-Vol.2]

B. D. BERWAL, Under Secy.

राजस्व विभाग

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2102.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर-निर्धारण वर्ष 2004-05 से नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम के अनुमोदन को नवीकृत करती है :

2. यह अनुमोदन इस शर्त के अधीन है कि :

- (i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;
- (ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—
 - (क) आयकर नियमावली, 1962 के नियम 2ड को व्याख्या (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है ; अथवा
 - (ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसा खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/उपक्रम है :—

मैसर्स मदुरै पावर कॉर्पोरेशन प्राईवेट लिमिटेड, फ्लैट जी-1 “शेषाद्री मेनोर” शेषाद्री रोड, अलवरपेट, चेन्नई - 600016, तमिलनाडु (पूर्व नामित मैसर्स बालाजी पावर कॉर्पोरेशन प्राईवेट लिमिटेड, 76, बाजुल्लाह रोड, टी.नगर, चेन्नई-600017) समयानल्लूर, मदुरै जिला, तमिलनाडु को उनकी 106, मेगावाट डीजल इंजिन पावर परियोजना के लिए। [फा. सं. 205/48/2000/आ.क. नि.-II]।

[अधिसूचना सं. 221/2004/फा.सं.205/48/2000-आ.क.नि.-II]

निधि सिंह, अवर सचिव

DEPARTMENT OF REVENUE

(Central Board of Direct Taxes)

New Delhi, the 18th August, 2004

S.O. 2102.—It is notified for general information that approval to the enterprise/undertaking, listed at para (3) below has been reviewed by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Asstt. Year 2004-05.

2. The approval is subject to the conditions that—

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1962, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of accounts and get such accounts audited by an accountant as required by Sub-rule (6) of Rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962.

3. The enterprise/undertaking approved is—

M/s. Madurai Power Corporation Private Limited, Flat G1 “Seshadri Manor”, Seshadri Road, Alwarpet, Chennai-600018, Tamil Nadu (formerly known as M/s Balaji Power Corporation Private Limited, 76, Bazullah Road, T. Nagar, Chennai-600017) For their 106 MW Diesel Engine Power Project in Samyanallur, Madurai District, Tamil Nadu (F. No. 205/48/2000-ITA-II).

[Notification No. 221/2004/F.No. 205/48/2000-ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2103.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003 से कर निर्धारण वर्ष 2021-2022 तक (27-6-2020 तक) अर्थात् मैसर्स भारतीय राष्ट्रीय राजमार्ग प्राधिकरण के साथ निष्पन्न दिनांक 28-6-2001 के रियायत करार में यथा उल्लिखित 19 वर्ष की अवधि के अंत तक उपर्युक्त करार के उल्लंघन की दशा में नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है :

2. यह अनुमोदन इस शर्त के अधीन है कि :

(i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ड की व्याख्या (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है ; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/उपक्रम है :—

मैसर्स जे. ए. एस. टोल रोड कम्पनी लिमिटेड, एफ-8, एम आई डी सी इन्डस्ट्रियल एरिया, हिंम्ना, नागपुर-440018 को भारतीय राष्ट्रीय राजमार्ग प्राधिकरण के साथ निष्पन्न दिनांक 28-06-2001 के छूट करार के अनुसार निर्माण, प्रचालन और हस्तांतरण आधार पर चार लेनों वाले विभाजित कैरिजवे के लिए कर्नाटक में राष्ट्रीय राजमार्ग सं. 4 के नीलमंगला-टुमकुर खंड पर 29.5 किलोमीटर से 62 कि.मी. तक मौजूदा 2 लेनों को चौड़ा करने और पुनर्वास की उनकी परियोजना के लिए (फा.सं. 205/17/2003-आ.क.नि.-II)।

[अधिसूचना सं. 220/2004/फा.सं.205/17/2003/आ.क.नि.-II]

निधि सिंह, अवर सचिव

New Delhi, the 18th August, 2004

S. O. 2103.—It is notified for general information that the enterprise listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Asstt. Year 2002-03 to Asstt. Year 2021-22 (up to 27-06-2020) i.e. up to the end of period of 19 years as mentioned in concession agreement dt. 28-06-2001 entered into with M/s. National Highway Authority of India or earlier, in the event of violation of the agreement aforesaid.

2. The approval is subject to the conditions that —

- (i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—
 - (a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or
 - (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962; or
 - (c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962.

3. The enterprise/undertaking approved is —

M/s JAS Toll Road Company Ltd., F-8, MIDC Industrial Area, Hingna, Nagpur-440 016 for their project of widening and rehabilitation of the existing 2-Lanes from Km. 29.5 to Km. 62 on the Nelamangala-Tumkur Section of the National Highway No. 4 in Karnataka to four lane divided carriageway on build, operate and transfer (BOT) basis as per concession agreement dt. 28-06-2001 entered into with National Highway Authority of India (F. No. 205/17/2003-ITA-II).

[Notification No. 220/2004/F.No. 205/17/2003-ITA-II]

NIDHI SINGH, Under Secy.

कोयला एवं खान मंत्रालय

(कोयला विभाग)

नई दिल्ली, 24 अगस्त, 2004

का.आ. 2104.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है।

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात्

उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र का रेखांक सं. डी.जी./08585 तारीख 9 जनवरी, 2004 का निरीक्षण मुख्य महाप्रबंधक (गवेषणा प्रभाग), सेन्ट्रल माइन प्लानिंग एण्ड डिजाइन इंस्टीट्यूट, गोन्दवाना प्लेस, कांके रोड, रांची के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700 001 के कार्यालय में या जिला कलेक्टर, जिला-रायगढ़, छत्तीसगढ़ के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर मुख्य महाप्रबंधक (गवेषणा प्रभाग), सेन्ट्रल माइन प्लानिंग एण्ड डिजाइन इंस्टीट्यूट, गोन्दवाना प्लेस, कांके रोड, रांची को भेजेंगे।

अनुसूची

गारे—IV/8 खण्ड, मान्द रायगढ़, कोयला क्षेत्र

जिला—रायगढ़, छत्तीसगढ़

क्र.सं.	ग्राम	थाना	ग्राम नं.	जिला	क्षेत्रफल (एकड़)	क्षेत्रफल (हेक्टर)	टिप्पणी (लगभग) (लगभग)
1.	खम्हरिया	तमनार	67	रायगढ़	714	289	भाग
2.	मिल्लूपाड़ा	तमनार	254	रायगढ़	337	137	भाग
3.	गारे	तमनार	76	रायगढ़	50	20	भाग
4.	करवाही	तमनार	18	रायगढ़	79	32	भाग
कुल					1180	478	(लगभग) (लगभग)

सीमा विवरण

क-ख रेखा (लाइन) करवाही ग्राम के 'क' बिन्दु से शुरू होती है और खम्हरिया ग्राम के उत्तरी किनारे से गुजरती है और मिल्लूपाड़ा गांव में केलो नदी के पश्चिमी किनारे पर 'ख' बिन्दु पर मिलती है।

ख-ग रेखा (लाइन) केलो नदी के पश्चिमी किनारे से गुजरती है और गारे ग्राम के उत्तर-पूर्वी भाग में बिन्दु 'ग' पर मिलती है।

ग-क रेखा गारे गांव के उत्तर-पूर्वी भाग से होकर गुजरती है और करवाही गांव में 'क' बिन्दु पर मिलती है।

[फा. सं. 43015/11/2004-पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

MINISTRY OF COAL AND MINES

(Department of Coal)

New Delhi, the 11th August, 2004

S.O. 2104.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule here-to annexed.

Now therefore, in exercise of the powers conferred by Sub-section (i) of Section 4 of the Coal Bearing Areas (Acquisitions and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal here in.

2. The plan No. DG/08585 dated 9th January, 2004 of the area covered by this notification can be inspected

at the Office of Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Place, Kanke Road, Ranchi or at the office of the Coal Controller, 1, Council House Street, Calcutta or at the Office of the District Collector, Raigarh, Chhattisgarh.

3. All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred in sub-section (7) of Section 13 of the said Act to the Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Place, Kanke Road, Ranchi within ninety days from the date of publication of this notification.

SCHEDULE**Gare-IV/8 Block, Mand Raigarh Coalfield, District Raigarh, Chhattisgarh**

Sl. No.	Village	Thana	Village No.	District	Area (acres) (approx)	Area (hectares) (approx)	Remarks
1.	Khamharia	Tannar	67	Raigarh	714	289	Part
2.	Milupara	Tannar	254	Raigarh	337	137	Part
3.	Gare	Tannar	76	Raigarh	50	20	Part
4.	Karwahi	Tannar	18	Raigarh	79	32	Part
Total					1180 (Approx.)	478 (Approx.)	

Boundary Gare-IV/8

A-B The line start at point 'A' in village Karwahi and passes through northern part of village Khamharia and meets point 'B' on the western bank of Kelo river in the village Milupara.

B-C The line passes along western bank of Kelo river and meets point 'C' in the north-eastern part of village Gare.

C-A The line passes through north-eastern part of village Gare and meets point 'A' in village Karwahi.

[F. No. 43015/11/2004-PRIW]

SANJAY BAHADUR, Director

आदेश

नई दिल्ली, 24 अगस्त, 2004

का.आ. 2105.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 1355 तारीख 24 जून, 1998 भारत के राजपत्र, भाग-II, खंड 3, उपखंड (ii) तारीख 11 जुलाई, 1998 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) में खनिज के खनन, खदान, बोर करने, उनकी खुदाई करने और खनिजों को तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के लिए अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त हो आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे ;

और केन्द्रीय सरकार का समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है) ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए तैयार है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में के पूर्वोक्त अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 11 जुलाई, 1998 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कम्पनी में निहित हो जाएंगे, अर्थात् :—

- (1) सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर ब्याज नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।

- (2) सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त किए गए व्यक्तियों के संबंध में उपगत सभी व्यय सरकारी कम्पनी वहन करेगी और वैसे ही इस प्रकार निहित उक्त भूमि में या उस पर निहित होने वाले अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी सरकारी कम्पनी वहन करेगी।
- (3) सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो उक्त भूमि में या उस पर इस प्रकार निहित होने वाले पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकारी या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी।
- (4) सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की कोई शक्ति नहीं होगी; और
- (5) सरकारी कम्पनी, ऐसे निर्देशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी।

[फा. सं. 43015/22/91-एल.एस.डब्ल्यू./पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

ORDER

New Delhi, the 24th August, 2004

S.O. 2105.—Whereas on the publication of the notification of the Government of India in the then Ministry of Mines and Minerals (Department of Coal) No. S.O. 1355 dated the 24th June, 1998, published in the Gazette of India, Part-II, Section 3, Sub-section (ii), dated the 11th July, 1998, issued under Sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) have been vested absolutely in the Central Government free from all encumbrances under Sub-section (1) of Section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf:

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 11 of the said Act, the Central

Government hereby directs that the aforesaid rights in the said lands so vested, shall, with effect from the 11th July, 1998, instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely:—

- (1) The Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1) and all expenditure incurred in connection with such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights in the said lands so vested shall also be borne by the Government Company;
- (3) The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in the said lands so vested;
- (4) The Government Company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other person without the previous approval of the Central Government; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/22/91-LW/PRIW]
SANJAY BAHADUR, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग)

नई दिल्ली, 17 अगस्त, 2004

का.आ. 2106.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु चटगांव विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस.; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और; डा. जोया श्री राय, बांग्लादेशी नागरिक, जिनके पास उक्त अर्हता है, अखिल भारतीय आयुर्विज्ञान संस्थान, नई दिल्ली से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्वारा विनिर्दिष्ट करती है कि भारत में डा. जोया श्री राय द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. जोया श्री राय, अखिल भारतीय आयुर्विज्ञान संस्थान, नई दिल्ली से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2003-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 17th August, 2004

S.O. 2106.—Whereas medical qualification MBBS granted by Chittagong University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act.

And Whereas Dr. Joya Sree Roy, Bangladeshi national, who possess the said qualification is attached to All India Instt. of Medical Sciences, New Delhi for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Joya Sree Roy in India shall be limited to :—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Joya Sree Roy is attached to All India Instt. of Medical Sciences, New Delhi, whichever is shorter.

[F. No. V-11016/1/2003-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

(पी. एम. एस. अनुभाग)

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2107.—दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा भारतीय दन्त चिकित्सा परिषद से परामर्श करने के बाद उक्त अधिनियम की अनुसूची के भाग-1 में निम्नलिखित संशोधन करती है,

अनुसूची के भाग-1 में क्रम संख्या 26 और उससे संबद्ध प्रविष्टियों के नाम में निम्नलिखित जोड़ा जाएगा, अर्थात्

26. देवी अहिल्या विश्वविद्यालय, इन्दौर	दन्त शल्य चिकित्सा में स्नातक कालेज ऑफ़ डेंटल साइंस एण्ड हास्पिटल, इन्दौर के बी.डी.एस. छात्रों के संबंध में निम्नलिखित दन्त चिकित्सा अर्हता मान्यता प्राप्त अर्हता होगी यदि यह 20-3-2004 को अथवा उसके बाद प्रदान की गई हो।	बी.डी.एस. देवी अहिल्या विश्वविद्यालय, इन्दौर
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[फा. सं. वी-12017/22/98-पी.एम.एस.]

ए. के. सिंह, अवर सचिव

(P. M. S. Section)

New Delhi, the 18th August, 2004

S.O. 2107.—In exercise of the power conferred by Sub-section (2) of the Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

In Part-I of the Schedule, against Serial Number 26, and the entries relating thereto, the following entries shall be added, namely :

26. Devi Ahilya Vishva-vidyalaya, Indore	Bachelor of Dental Surgery The following dental qualification shall be recognised qualification in respect of the BDS students of College of Dental Science & Hospital, Indore, if granted on after 20-3-2004.	BDS Devi Ahilya Vishva-vidyalaya, Indore
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[F. No. V-12017/22/98-PMS]

A.K. SINGH, Under Secy.

पोत परिवहन मंत्रालय

(नौवहन-पक्ष)

नई दिल्ली, 16 अगस्त, 2004

का.आ. 2108.—केन्द्रीय सरकार, राष्ट्रीय नौवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्य पोत-परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा, भारत सरकार, पोत परिवहन मंत्रालय (नौवहन-पक्ष) की दिनांक 27 जनवरी, 2004 की अधिसूचना सं० एस-18011/1/03-एस एल में निम्नलिखित संशोधन करती है।

दिनांक 27 जनवरी, 2004 की उक्त अधिसूचना में, क्रम सं० 2 से क्रम सं० 5 में विद्यमान प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियों को प्रतिस्थापित किया जाएगा, नामतः :—

- "2. श्री श्रीपाद येसो नाईक
संसद-सदस्य (लोक-सभा)
3. श्री वीर चन्द्र पासवान
संसद-सदस्य (लोक-सभा)
4. डॉ० सेबस्तियन पॉल
संसद-सदस्य (लोक-सभा)
5. श्री के० वी० तांगका बालू
संसद-सदस्य (लोक-सभा)"

[फा० सं० एस एस-18011/1/03-एस. एल.]

वी० पी० राणा, अवर सचिव

MINISTRY OF SHIPPING (Shipping Wing)

New Delhi, the 16th August, 2004

S.O. 2108.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 4 of the National Shipping Board rules, 1960, the Central Government hereby makes the following amendments in the Government of India, Ministry of Shipping (Shipping Wing's) Notification No. SS-18011/1/03-SL dated 27th January, 2004.

In the said Notification dated 27th January, 2004 for the existing entries from Sl. No. 2 to Sl. No. 5, the following entries shall be substituted, namely:—

- "2. Shri Sripad Yasso Naik
M. P. (Lok Sabha)
3. Shri Virchandra Paswan
M. P. (Lok Sabha)
4. Dr. Sebastian Paul
M. P. (Lok Sabha)
5. Shri K. V. Tangka Balu
M. P. (Lok Sabha)"

[F. No. SS-18011/1/03-SL]

V. P. RANA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 10 अगस्त, 2004

का.आ. 2109.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन भारतीय खाद्य निगम के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

भारतीय खाद्य निगम,
जिला कार्यालय
शाहजहांपुर,
उत्तर प्रदेश।

[संख्या : ई-11011/1/2001-हिन्दी]

अनीता चौधरी, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (Deptt. of Food & Public Distribution)

New Delhi, the 10th August, 2004

S.O. 2109.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following office of Food Corporation of India under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi:

Food Corporation of India,
District Office, Shahjahanpur,
Uttar Pradesh.

[No. E-11011/1/2001-Hindi]

ANITA CHAUDHARY, Jt. Secy.

मानव संसाधन विकास मंत्रालय (माध्यमिक और उच्चतर शिक्षा विभाग)

नई दिल्ली, 13 अगस्त, 2004

का.आ. 2110.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में मानव संसाधन विकास मंत्रालय (माध्यमिक और उच्चतर शिक्षा विभाग) के अंतर्गत निम्न स्थायक संगठन को, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

राष्ट्रीय औद्योगिक इंजीनियरी संस्थान,
विहार सरोवर
डाकघर नौटी,
मुंबई-400087

[संख्या 11011-4/2003-रा.भा.ए.]

डी. पी. बन्दूनी, निदेशक (रा. भा.)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Deptt. of Sec. & Higher Education)

New Delhi, the 13th August, 2004

S.O. 2110.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976 the Central Government hereby notifies the following Autonomous Organisation Under the Ministry of Human Resource Development (Deptt. of Sec. & Higher Education), whose more than 80% members of staff have acquired the working knowledge of Hindi:

National Institute of Industrial Engineering,
Vihar Lake,
P.O. NITIE,
Mumbai-400087

[No. 11011-4/2003-O.L.U.]

D. P. BANDOONI, Director (C. L.);

श्रम मंत्रालय

नई दिल्ली, 28 जुलाई, 2004

का.आ. 211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ. सी. आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना (संदर्भ संख्या 40/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं० एल.-22012/572/1999-आई. आर. (सी एम-II)]

एन० पी० केशवन, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 28th July, 2004

S.O. 2111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 40/2000) of the Industrial Tribunal, Patna (Bihar) as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workman, which was received by the Central Government on 28-7-2004.

[No. L-22012/572/1999-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, PATNA**

Reference Case No. 4C of 2000

Management of Food Corporation of India, Arunachal Building, Exhibition Road, Patna and their workman represented by the State Joint Secretary (Welfare) F.C.I. Executive Staff Union, C/o Arunachal Building, Exhibition Road, Patna.

For the Management : Shri M. L. Banerjee,
Deputy Manager (Genl.)

For the Workman : Sri Vijayandra Kumar,
State Joint Secretary.

PRESENT : Priya Saran, Presiding Officer,
Industrial Tribunal, Patna.

AWARD

The 20th July, 2004

By the adjudication Order No. L-22012/572/1999-IR (CM-II) dated 13-07-2000 the Government of India, Ministry of Labour New Delhi has referred, under Clause (d) of sub-section 1 and Sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947 (hereinafter to be referred to as 'the Act') the following dispute between the management of Food Corporation of India, Arunachal Building, Exhibition Road, Patna and their workman represented by the State Joint Secretary (Welfare), F.C.I. Executive Staff Union, C/o. Arunachal Building, Exhibition Road, Patna for adjudication. to this Tribunal :—

“Whether the action of the management of Food Corporation of India, Patna to revert Sh. Rambrat Paswan, AGI (D) of FSC, Gaya to AG. III (D) with direction to fix his pay at initial stage of AG. II (D) and to recover of 1/3rd of his basic pay for three years is justified? If not, to what relief the workman is entitled?”

2. Both the parties have filed their written statement and contested the case. In short, the case of workman Ram Brat Paswan (hereinafter, to be referred as workman for short) is that he was employed at Food Storage Depot, FCI, Gaya during 1988-90 as Assistant Grade-I (Depot) and was looking after the operation of Silo Bin. A charge-sheet dated 9-11-92 was issued against him and one other for down gradation of huge quantity of wheat of Silo Bin on account of no re-bagging of the same. An enquiry followed the charge. The enquiry was conducted by Sri Kulwant Singh, Deputy Manager, Regional Office, FCI, Patna. The Disciplinary Authority on the basis of his enquiry report passed punishment order on 25-11-98 without considering workmen's reply thereby reducing his rank to the lower post of Asstt. Grade-II (D) at minimum pay with recovery of 1/3rd of his basic pay for three years. Tele conduct of enquiry has been challenged by the workman narrating in written statement that he was unable to derend himself in a proper way for non-supply of prosecution brief and not providing him an opportunity to inspect various documents. It is alleged by the worker that he was neither given opportunity to inspect required documents as per his prayer nor prosecution brief was furnished to him. He further claims that serviceable gunny bags since not available, he was not responsible for not re-bagging the wheat grains. His defence above was not considered by the Enquiry Officer and so the enquiry was unfair, improper and against the principles of natural justice. It is also averred in the written statement that for a similar charge on Sri Bhawan Tiwary Asstt. Manager (Depot) F.S.D., Gaya was let off on the basis of the finding of Enquiry Officer Sri D.K. Banerjee that serviceable gunny bags were not available to make him responsible for not re-bagging the wheat. The workman on the basis of aforesaid facts has claimed that the order of penalty is illegal, unjustified and based on wrong facts and liable to be set aside. He has also claimed his entitlement to his restoration to original Grade and refund of recovered amount from his pay.

3. The management of F.C.I. in reply has stated that the reference is not maintainable as the workman did not

avail alternative remedy U/s. 45 of F.C.I. Act, he is not a workman U/s. 2(S) of the Industrial Disputes Act for he held a post of Supervisory nature in the scale of 1825 to 3430 and charged levelled against him in two proceedings were established on enquiry. Sufficient Opportunity was given to him, but did not requisition any additional documents. Show Cause notice with enquiry report was supplied to him for submitting written reply, which was not submitted within stipulated time. Two charge sheets one dated 4-5-91 for incurrence of loss to the wheat stock to the tune of 24337.73. 309 gms. stored in Silo Bin and for keeping the Book of Account/Depot Records pertaining to the Silo Bin pending for four years with malafide intention of manipulation therein and the second charge sheet for keeping the wheat discharged from Silo Bin in heap condition without properly bagging and stacking the same and not even covering that with tarpauline thereby causing downgradation of the entire stock to below 'D' category were issued to the workman. Enquiry was conducted thereto and he was held guilty of both. The Disciplinary Authority after considering both the enquiry reports passed order on 25-11-98 inflicting a composite punishment which according to the management is rather lenient. The management lastly has prayed for dismissing workman's claim in view of their above averments.

4. Before entering into discussions on merit it may be casually mentioned that the management before placing their argument filed a petition with a prayer to debar Sri Vijayendra Kumar from representing the worker. This is quite a belated attempt by the management in challenging the representative capacity of Sri V. Kumar on the ground of his not being an office bearer of the Staff Union and all the more it appears to be a frustrated one without any merit since this issue was set at rest by Tribunal's order dated 22-3-2004, whereby management's petition was dismissed after due consideration of various stands of the parties. In the petition under reference there is nothing fresh to allow the same and more so, there appears absolutely no justification to disallow worker's representative Sri Kumar to continue with the case which is at argument stage. The petition does not demand any consideration at this stage and accordingly the same is brushed aside.

5. Now, we come to the merit of the case. It may be pointed out at the very outset that the management neither filed any list of witnesses nor examined any one in this case. They have of course filed some documents Exts. M to M/4. Ext. M is the chargesheet dated 4-5-91 and Ext. M/1 is second chargesheet dated 9-11-92 against the worker. Enquiry Report into the allegations contained in chargesheet dated 9-11-92 is Ext. M/2 whereas Ext. M/3 is the enquiry report with regard to chargesheet dated 4-5-91. Ext. M/4 is the order of punishment dated 25-11-98 which has been impugned by the workman on various grounds, and that is the subject matter before us.

6. The worker on the other hand examined himself as alone witness in support of his case. He has also filed some documents which are Exts. (Chargesheet dated 4-5-91), Ext. W/1 (Reply dated 12-7-91) of the workman pleading not guilty to the charge, Ext. W/2 enquiry report with reference to chargesheet Ext. W, Ext. W/3 chargesheet dated 9-11-92, Ext. W/4 enquiry report in relation to the chargesheet above Ext. W/5 impugned order of punishment, Ext. W/6 enquiry report in connection with charge against Sri Bhagwan Tiwary, Asstt. Manager, Ext. W/7 letter dated 30-1-90 of the District Manager, F.C.I., Patna for the supply of gunny bags to Gaya and Ext. W/8 (Statement of operational loss of wheat).

7. It may be noted here for appreciating that all the documents filed by the management have also been filed by the worker and so separate discussion is not required on management's documents. It may be elaborated the Exts. M, M/1, M/2, M/3 and M/4 are same as Exts. W, W/3, W/4, W/2 and W/5 respectively.

8. Let us now see what the impugned order (Exts. W/5/M/4) says about the punishment. According to this document the worker was proceeded against for the charge contained in office memo dated 9-11-92 (Exts. W/3/M/1), for committing an act of misconduct dereliction of duty so much so that 11103 M.T. of 'B' Category of wheat discharged from Silo Bin were left in shed number 12 and 13 in heap condition without getting the stock properly bagged and stacked for a period of more than one year thereby causing downgradation of stock from 'B' Category to 'D' Category and below 'D' Category and the stock so kept was not even covered by tarpauline to protect from damage from weather and after lapse of more than one year entire stock downgraded to below 'D' Category for which the worker as incharge of Silo Bin shed was responsible. The charge further speaks that sufficient number of M.T. Gunny Bags were available, the impugned order further mentions of another charge sheet dated 4-5-91 containing two articles of charge one for causing incurrence of losses of the wheat stock to the tune of 34337.73.309 gms. and secondly for keeping the Book of Account/Depot Record pertaining to the Silo Bin pending for four years with ulterior/malafide intention to manipulate therein to adjust the loss of wheat stock. With relation to both the chargesheets i.e. Exts. W/M and W/3/M/1 referred to above, enquiry was conducted against the worker and reports Exts. W/2/M/3 and W/4/M/2 were respectively submitted by the Enquiry Officer. The Senior Regional Manager after examining the documents, evidence, enquiry report and reply furnished by the charged official i.e. the worker, did not find any reason to differ with the finding of the Enquiry Officer and accordingly he imposed punishment upon the worker of reduction to the lower post of AG-II(D) at the minimum of pay with recovery of 1/3rd of his basic pay for three years to recover the losses suffered by the F.C.I.

9. Impunged punishment order thus basically stands based on the finding of Enquiry Officer and his reports Exts. W/2 and W/4. It has been consistently held by the Hon'ble Courts that the principles of natural justice must invariably be followed before infliction of punishment otherwise it would be illegal and violative of Article 14 of the Constitution. It is also the principles laid by Hon'ble Courts that the allegations/charges have to be proved in records and mere accusation will be malafide. As regards the chargesheet dated 4-5-91, the Enquiry Officer's analysis is that after storage period of 4 to 6 years, the category of wheat was bound to slide down. PW-1 before him admitted that due to leakage, moisture migration possibility of damage could not be ruled out. The report also mentions that storage loss was bound to be there according to investigation report though not abnormal. A careful glance of Ext. W/2 makes it quite clear that the evidence on record was not clear before the Enquiry Officer to lead him to hold that none else but the worker was to be blamed for incurred loss. The Enquiry Officer was neither himself an expert nor there was any such evidence before him to come to the finding as to how much storage loss was expected in normal course and to what extent worker could be held liable for the loss. Once it came on record that there was chances of degradation on account of long storage period of 4 to 6 years besides there was leakage in the Silo Bin to cause damage, the Enquiry Officer should not have acted on assumption that the charged Officer being incharge was responsible in that context.

10. As regards second charge contained in Exts. W/M, the Enquiry Officer has mentioned in concluding lines of his report that the worker took over charge on 30-9-85 but his fault was that he did not point out towards the lapses on the part of his predecessor that the Record/Book of Accounts were pending since before. It appears quite ridiculous to learn from the report that the worker was held guilty of this charge also which was not of his period for the simple reason that he did not mention towards the lapses of predecessor at the time of taking over, particularly when there was no material before the Enquiry Officer to suggest that he had or carried any ulterior notice or malafide intention.

11. The oral testimony of WW1 Ram Barat Paswan in this regard also may be looked into. He joined at Gaya F.S.D. on 30-9-85. The Silo Bin was stored with wheat grains since 1977. This fact is also mentioned in the Enquiry Report Ext. W/2. The witness further says that there was leakage in Silo Bin. There was no arrangement of aeration. He wrote all about these shortcomings to the A.M. (D). Sri Bhagwan Tiwary many a times, who was incharge of Gaya Region. According to him, the quality Control and Engineering Department are responsible for safe storage of the wheat and the leakage of the Silo Bin. It is further stated by him that no chemical treatment was provided to

the stock since after wheat got stored in the year 1977. The clear evidence of WW1 coupled with the Enquiry Report, would safely lead us to come to the conclusion that the workman should not have been held guilty for any of the charges contained in memo dated 4-5-91 i.e. Exts. W/M. All the more, storage loss is but a natural process. Ext. W/8 are two sheets of statement showing operational loss since 1977. Although this document does not account for the entire loss mentioned in the chargesheet, yet is indicative of the fact that the loss allegedly incurred could have very well been on account of long storage of several years since 1977, particularly when leakage in the Silo Bin was there from before, and there had been no chemical treatment since the time of storage.

12. Now we come to the second chargesheet Exts. W/3/M/1. The charge is with regard to the degradation of 11103 M.T. of 'B' Category wheat to below 'D' Category for not rebagging and stacking while keeping those in heap condition without even covering the same with tarpauline for a period of more than one year, whereas M.T. Gunny Bags were available. The Enquiry Report with relation to this charge is Exts. W/4/M/2. In his analysis the Enquiry Officer mentions that in absence of any evidence in defence he held the worker responsible for the charge although the Ventilator and Walls near the terrace of the shed were in broken condition and there was possibility of down gradation of the stock in the Silo itself, although not to be extent of 'D' Category. The Enquiry Officer further mentions that Engineering staff was responsible for maintenance of Silo Bin. The Enquiry Report concludes that P.O. had not been able to present the case efficiently/ properly nor he had submitted any brief and hence, he after waiting for one and half months, submitted the report. Patently, the finding of the Enquiry Officer looks ridiculous for the same reasons advanced with respect to the enquiry report discussed earlier and there was no justification for him to give a guilty verdict when he was himself of the opinion that downgradation was possible in the Silo itself and the Ventilators and the Walls of the Shed were in broken condition. Moreover, it is in his report itself that no defence version was before him nor the case was properly presented by the P.O. In such circumstances, there was no justification for the Enquiry Officer to have given finding against the worker for the charge which was not established from record. He has not taken care of the principles of natural justice.

13. Apart from above, Ext. M/6 and Enquiry Report against Asstt. Manager Sri Bhagwan Tiwary may remaind us that he also faced the same charge for the loss of 11103 M.T. of wheat and was exonerated of the same, after due enquiry for the simple reason that guilty control operation for the maintenance of the quality of stock was quite unsatisfactory and also serviceable gunny bags were not adequately supplied, besides there was labour problems on occasions. Ext. W/7 does suggest that Dist. Manager,

F.C.I., Patna, only on 30-1-90, issued order to arrange the Gunny Bags from Barh and deliver the same to Gaya.

14. All aforesaid facts and also Exts. W/6 and W/7 amply suggest that there was absolutely no justification to hold the worker guilty of the charge as under Ext. W/3 for the simple reason that his defence was not before the Enquiry Officer nor the case was properly presented before him and more-over, for the same charge Asstt. Manager, Sri Bhagwan Tiwary was exonerated honourably.

15. Now, summing up, I would say that there was no evidence on record before the Enquiry Officer to hold the worker guilty in connection with either of the chargesheet. Both the Enquiry Reports pertaining thereto do not contain any force nor appear based on cogent evidence or reasoning. It also looks apparent from the enquiry reports, that no care was taken of the principles of natural justice at the time of enquiry into all the charges. Since there was no material in the Enquiry Reports Exts. W/2 and W/4 those could not have formed the basis of any punishment as inflicted upon the worker vide Ext. W/5. The management appears to have been carried by extraneous circumstances or considerations beyond the records. Since evidence is not clear to establish the guilt to the worker on either of the charges, the order of punishment is liable to be set aside.

16. The result is, in light of the evidence and discussions aforesaid, that the impugned order Exts. W/5 M/4 is not maintainable in as much as the worker can not be held responsible or guilty for any of the charges levelled against him in two chargesheets and accordingly, he did not deserve any sort of punishment. The impugned order imposing various punishment upon the worker is accordingly set aside. The worker is accordingly held entitled to the restoration of his former post of AG-I(D) from the date of his reversion i.e. 25-11-98 alongwith the refund of entire amount which has been recovered from his pay on the basis of impugned order. The management is directed to accord the worker his former grade and all benefits as noted above within two months from the date of publication.

17. Award accordingly.

Dictated & corrected by me.

PRIYA SARAN, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. नम्बर 169/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं० एल.-22013/1/2004-आई० आर० (सी-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 28th July, 2004

S.O. 2112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID No. 169/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of SCCL and their workman, which was received by the Central Government on 28-7-2004.

[No. L-22013/1/2004-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 25th day of June, 2004

INDUSTRIAL DISPUTE L.C.I.D. 169/2003

BETWEEN:

Sri Moram Venkateswarlu,
S/o Chandraiah,
Q. No. T2-189,
Manuguru, Khammam District.Petitioner

AND

1. The Chief General Manager,
The Singareni Collieries Co. Ltd.,
Manuguru (Projects), Manuguru
Khammam District.
2. The Chief General Manager,
The Singareni Collieries Co. Ltd.,
OC-II, P.K.
ManuguruRespondents

APPEARANCES:

For the Petitioner : Shri Syed Lateef, Advocate
For the Respondent : M/s. K. Srinivasa Murthy,
C. Vijay Sekhar Reddy and
S. Vijay Venkatesh,
Advocates.

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated

3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. This is a petition filed by the Petitioner stating that the Petitioner was a workman Dumper Operator at Prakash Khani, open cast-II, Manuguru having been appointed on 28-1-86. He was dismissed on 12-7-99 with an allegation that the Petitioner was on 31-1-99 at about 2.35 A.M. in the early hours of 1-2-99, in his third shift while in discharging his duties has drove his dumper i.e., 85-T towards the cable side of shovel for loading of coal, the dumper ran over a general mazdoor, E. Papaiah, who was working as cableman to the shovel and injured fatally. An enquiry was conducted and he was dismissed from the service. Much is mentioned about enquiry but ultimately it was admitted that although the procedure is correct but the findings are wrong. Hence, he may be reinstated with back wages etc.

3. A counter was filed stating that the workman was working as E.P. Operator, PK OC-II, Manuguru was chargesheeted for driving his Dumper towards cable side passing the shovel without bothering about the presence of the Cableman and due to his negligence, the Cableman, Sri E. Papaiah was run over by his Dumper 85-T in forward direction and injured fatally. The Petitioner was charged under misconduct under Company's Standing Orders 25.16 and 25.5 respectively. He was dismissed from service from 16-7-99 and not from 12-7-99. That the enquiry was conducted as per principles of natural justice. That the Enquiry Officer has examined two other colleague operators overman of the shift and shovel operator who gave evidence that the Petitioner/workman went to the cable side which he was not supposed to do and due to negligence dumper ran over Sri E. Papaiah who got crushed and the dumper tyre marks of the Petitioner's vehicle was found near the accident. Further the Petitioner/workman in his chief examination and also in his cross-examination admitted that he had gone to cable side for loading although there substance to park the vehicle while waiting to be loaded. The averments that the deceased was sleeping at that time is denied. The further averments that if the deceased was alert alleged accident could be avoided is not correct. It is because of the negligence, the accident happened and the Petitioner/workman contravened the Coal Mines Regulation, 190. Because of his negligence, the deceased was crushed and also tyre marks of the Petitioner's vehicle was found at the place of the accident. Hence, the Petitioner is not entitled to any relief.

4. The enquiry was conceded as validity conducted by the Petitioner's counsel. But it is alleged that the conclusions reached by the Enquiry Officer are not correct and if they are correct the punishment of dismissal is too severe a punishment if the punishment is putting 13 years of service and prayed that a lenient view may be taken and the Petitioner may be awarded a lesser punishment.

5. It is argued by the Learned Counsel for the Respondent that one persons's life is lost and therefore the Petitioner does not deserve any mercy. It is not only on account of his negligence that the deceased died. Therefore, the Petition may be dismissed.

6. It may be seen that the Enquiry Officer has gone through the evidence and in fact Mohd. Mouiddin, Shovel Operator, MW2 stated that at about 2.30 PM one dumper has gone to the cable side. That the Petitioner has confirmed that his dumper has gone to the cable side. In the cross-examination MW2 stated that the dead body of the cableman is just outside the cable. Dumper was kept behind the shovel that the dumper operator can see the bucket of shovel and the shovel operator can see the dumper. Even Sri M.V. Rajkumar, E.P. Operator, MW3 stated that he has kept his dumper at about 2.30 AM for sixth load at shovel. He also stated that while his dumper was being loaded Sri M. Venkateswarlu's dumper No.85-T came and went towards cable side. MW4 also stated so. That even the Petitioner himself has stated that he had gone to the 7th trip to cable side. He admitted that he gone to the cable side. That he had gone negligently back side of the shovel towards cable side. That was his anxiety to take the load as soon as the dumper of Sri M. V. Rajkumar is loaded. That he should not have gone to the cable side. Therefore it establishes that he has gone to the cable side and due to his negligence the deceased died. It may be seen that the Petitioner has been in service for 13 years. No doubt, a fatal accident has taken place. Yet a sympathetic view can be taken and instead of dismissal from 16-7-99 he shall be deemed to have rendered service from 28-1-86 till 16-7-99 and he is deemed to have retired compulsorily on 16-7-99 and he shall be entitled for all benefits which a retired person is entitled to.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 25th day of June, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुतिकोरिन पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 10/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-07-2004 को प्राप्त हुआ था।

[सं० एल.-44011/1/2001-आई.आर. (एम)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 2113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tuticorin Port Trust and their workmen, which was received by the Central Government on 28-7-2004.

[No. L-44011/1/2001-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 25th May, 2004

PRESENT : K. Jayaraman, Presiding Officer

INDUSTRIAL DISPUTE NO. 10/2002

(In the matter of the dispute for adjudication under clause (d)) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of The Chairman, Tuticorin Port Trust, The Administrator, Tuticorin Stevedores Association and their workmen)

BETWEEN

Sri N. Deva Asirvatham : I Party/Workman

AND

1. The Chairman, : II Party/Management

Tuticorin Port Trust,
Tuticorin

2. The Administrator,
Tuticorin Stevedores
Association, Tuticorin

APPEARANCE:

For the Petitioner : Sri G. Venkataraman &
N. Krishnakumar,
Advocates.

For the 1st Respondent : M/s. T.S. Gopalan & Co.,
Advocates.

For the 2nd Respondent : M/s. S.Subbiah, Advocates.

AWARD

1. The Central Government, Ministry of Labour vide Order No. L-44011/1/2001-IR(M) dated 09-01-2002 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of Tuticorin Stevedores Association, 5-A, World Trade Avenue, Harbour Estate, Tuticorin-628 004 in not allowing the delinquent workman, Shri N. Deva Asirvatham to work as Tally Clerk in the Management is legal and justified? If not, what relief the concerned employee is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 10/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was appointed as tally clerk under the Tuticorin Stevedores Association (Labour Pool) administrative body from the inception of the cargo handling labour pool by the Tuticorin Port Trust in the year of 1981 and the Petitioner was working continuously without any remark till 24-12-93. The Petitioner had applied leave for 15 days and left India to Sri Lanka on 29-12-93 from Trivandrum to enable him to attend his brother's family function and also to settle the property dispute with his brother. He has also got a tourist visa for six days only, left India to Sri Lanka via Trivandrum on 29-12-93. While at Sri Lanka he was suffering from jaundice and he could not move from bed and on account of that, he had overstayed at Sri Lanka for one more day without visa and he could not obtain visa for the extended day. Therefore on the ground of over-stay in Sri Lanka, the Govt. of Sri Lanka put him in a camp where he was forced to be detained for six months. He was not even allowed to contact his brother at Sri Lanka to seek remedy for his return to Tamil Nadu. The detention of Petitioner was at the instance of

Sovereign Act of Govt. of Sri Lanka and not due to any misconduct or offence except overstay of a day due to severe ill health of the Petitioner. After returning to India, he submitted a landing certificate issued by Inspector of Police, Special Branch, Airport Immigration, Trichy dated 11-2-96 narrating the above incidence and certifying the arrival in India at Trichy Airport. On 5-7-94 he approached the 2nd Respondent to give him work again on 16-7-94 explaining the hardships he had suffered in Sri Lanka but the 2nd Respondent has informed that his name was already removed from service. The removal of his name from the rolls of 2nd Respondent is against the principles of natural justice and in violation of the established procedure. Further, any termination not except under section 2(oo) is retrenchment and is illegal if the provisions of Section 25F of the act has not been complied with. Further, the Petitioner was removed from service without holding any domestic enquiry. The denial of opportunity to represent and absence of domestic enquiry is in violation of principles of natural justice and thus, Article 14 of Constitution and deprivation of livelihood without opportunity is violative of Article 21 of the Constitution. Therefore, the order passed by the 2nd Respondent is null and void. The 2nd Respondent namely Tuticorin Stevedores Association (labour pool) administrative body was taken over by the 1st Respondent Tuticorin Port Trust by way of settlement under section 12(3) of the Industrial Disputes Act, 1947 dated 22-12-99 w.e.f. 01-01-2000 and the body was renamed as Tuticorin Port Trust Cargo Handling Labour Pool. Therefore, the 1st Respondent is a necessary and proper party to this dispute. The Petitioner therefore, prays that an award may be passed in his favour holding that the non-employment of the Petitioner is not justified and direct the 1st Respondent to reinstate the Petitioner into their service with continuity of service, back wages and other attendant benefits.

4. The 1st Respondent filed their Counter Statement in which they alleged that no doubt by a settlement dated 22-12-99 made under the provisions of Industrial Disputes Act, this Respondent has agreed to take over 1990 workmen and staff of the 2nd Respondent's association, the 1st Respondent is liable to absorb only those workmen and staff referred to in the said settlement. The Petitioner was not one of the workmen covered by the settlement dated 22-12-99, therefore, the 1st respondent is neither answerable to the claim of the Petitioner nor liable to take the Petitioner for employment and as such, the claim against the 1st Respondent is liable to be rejected. From the records of the 2nd Respondent, the Respondent came to understand that the Petitioner

was working as tally clerk (labour pool) maintained by the 2nd Respondent and the Petitioner did not offer himself for engagement after 6-11-93 and there was no intimation from the Petitioner about the reasons for his absence nor did he apply for leave and after giving notice to the Petitioner calling upon him to report for duty, his dock entry permit was cancelled and consequently, his name was also removed from the rolls of the 2nd Respondent. Further, during the year 1994 when the 2nd Respondent was considering his representation he disappeared from the scene for the second time and that he raised the dispute after more than three years in 1998. In other words, the Petitioner raised the dispute against the 2nd Respondent after inordinate delay, hence on this ground also, the claim of the petitioner should be rejected. Any how, it is for the 2nd Respondent to answer the claim of the Petitioner that it was not responsible for the non-employment. Therefore, the 1st Respondent prays that the claim may be dismissed with costs.

5. The 2nd Respondent has not filed any Counter Statement in this dispute.

6. In these circumstances, the points for my consideration are—

- (i) "Whether the action to the 2nd Respondent in not allowing the Petitioner to work as Tally Clerk in the Management is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:

7. It is the admitted case of both sides that the Petitioner worked as a Tally Clerk in the 2nd Respondent namely Tuticorin Stevedores Association. According to the Petitioner, he applied leave for 15 days and left India to Sri Lanka on 29-12-93 on a Tourist Visa under T. No. 7910/93 dated 02-12-93 was issued to him for one journey with six days stay and since he was laid at bed due to jaundice he could not move from bed and on account of this he has over-stayed at Sri Lanka for one more day without Visa and therefore, on the ground of over-stay, the Sri Lanka Govt. has put him in a camp, where he was forced to be detained for six months and he was unable to contact even his own brother at Sri Lanka nor he could contact his relatives at India. Since the detention at Sri Lanka was at the instance of Sovereign Act of Sri Lanka, it was not due to any misconduct or offence except overstay due to severe ill health and therefore, the termination of the Petitioner from the service of the 2nd Respondent is not valid. Even assuming for an argument sake that the termination is valid, it is retrenchment since

it is not exempted under section 2(oo) of the Industrial Disputes Act, 1947, therefore, without following the mandatory provisions of Section 25F of the Act, is not valid and it is illegal. Further, the 2nd Respondent has not conducted any domestic enquiry against the Petitioner and in the absence of domestic enquiry which is in violation of principles of natural justice and therefore, even assuming that the 2nd Respondent has terminated the service, it is not valid in law and it is null and void. Further, on behalf of the Petitioner, it is contended that the 1st Respondent has taken over the 2nd Respondent namely Tuticorin Stevedores Association (labour pool) administrative body under a settlement entered into between them under section 12(3) of the Act dated 22-12-99. Therefore, the 1st Respondent is a necessary and proper party to this dispute and since the order passed by the 2nd Respondent is null and void, the 1st Respondent is to reinstate the Petitioner into service with all back wages, continuity of service and other attendant benefits.

8. But, as against this, the 1st Respondent, who is a contested Respondent in this case, has alleged that no doubt by a settlement dated 22-12-1999 made under the provisions of Section 12(3) of the Industrial Disputes Act, 1947, the 1st Respondent has agreed to take over 1990 workmen and staff of the 2nd respondent association. The 1st Respondent was liable to absorb only those workmen and staff referred to in the said settlement. The Petitioner was not one of the workmen covered by the settlement, therefore, the 1st Respondent is neither answerable to the claim of the Petitioner nor liable to take the Petitioner in its employment. Any how, the 2nd Respondent is to answer the claim of the Petitioner and to establish that it was not responsible for his non-employment. It is further contended on behalf of the Respondent that from the records of the 2nd Respondent, it is clear that the Petitioner was absented for duty as a Tally Clerk from 6-11-93 and no leave application was given by the Petitioner and therefore, a notice was sent to the Petitioner which was not served on him and therefore, they have given a publication in the newspaper and had removed his name from the rolls and also advised the Port Trust to cancel the dock entry permit issued to him. Therefore, the Petitioner was not in the rolls of the 2nd Respondent and he cannot claim any benefits under I.D. Act. Furthermore, the Petitioner has virtually abandoned his duties and he has left India to foreign country without permission from his employer and without applying any leave. Under such circumstances, he cannot claim the benefits under Industrial disputes Act at this stage.

9. In this case, on the side of the I Party, the Petitioner examined himself as WW1 and produced documents Ex. W1 to W10 and on the side to the respondent one Sri Lasington Fernando, Manager (Personnel & Welfare) who is working in the II Party organisation, was examined as MW1 and on the side of the respondent Ex. M1 to M16 were marked. In these documents, Ex. W1 is the copy of the letter given by the Petitioner to 2nd Respondent on 16-7-94. Similarly, the Petitioner has addressed the 2nd Respondent on 11-2-96, 12-11-98 which are marked as Ex. W2. The extract of the publication is marked as Ex. W3. Again, the letter addressed to the 1st Respondent is marked as Ex. W4, Ex. W10 is the copy of identity card issued by the Port Trust to the Petitioner. On the side of the Respondent, copy of the Memorandum of Settlement entered into between the 1st and 2nd Respondent is marked as Ex. M1 and the Respondent produced the copy of the letter dated 31-12-93 alleged to have been written by the Petitioner to the 2nd respondent, which is marked as Ex. M6 and also produced copy of the another letter alleged to have been written by the wife of the petitioner as Ex. M7 and the copy of the notice issued to the I Party by the 2nd Respondent through RPAD with returned cover as Ex. M8 and M9 respectively. The respondent also marked copies of documents issued to the Petitioner as Ex. M10 and the paper cutting for the publication in 'Daily Thanthi' with regard to Notification as Ex. M11.

10. The learned counsel for the Petitioner argued that no doubt the Petitioner has left India to Sri Lanka and he has returned from Sri Lanka only on 5-7-94, and Even assuming that his absence is wrong, it cannot be considered as abandonment of his job. Under such circumstances, the 2nd Respondent has to take disciplinary proceedings against the Petitioner. But, no enquiry was held against the Petitioner and no opportunity was given to the Petitioner to explain his long absence. Under such circumstances, the termination not except under section 2(oo) of the Act is retrenchment and therefore, it is illegal and the mandatory of Section 25F of the Act has not been followed. In this case, no notice of termination was issued to him and no compensation was given to him and therefore, the termination is not valid in law and it is null and void and therefore, the alleged order of termination is to be set aside by the Tribunal and the Petitioner has to be reinstated in service.

11. But, as against this, learned counsel for the Respondent argued that the Petitioner has admitted that he has left India to Sri Lanka on 29-12-93 but, even though he has stated that he has applied leave for 15 days, he has not stated from which date to which date he has applied for

leave and whether his leave has been sanctioned by the employer and therefore, it is false to allege that he has applied for leave and left India to Sri Lanka on his personal grounds. Though the Petitioner has stated that due to over stay at Sri Lanka, he has been detained by Sri Lanka Govt. and though he has stated that it was not due to any misconduct or offence against except overstay of a day due to severe ill health, since his absence is wanton, his absence was without any permission or leave, the employer has taken all steps to give him job by issuing notice under Ex. M 10 and also issued paper publication under Ex. M 11 dated 26-5-94. Even after six months, the Petitioner has not turned up for duty and his absence was without any valid reason and hence he has been removed from the rolls and such action of the employer cannot be termed as illegal and he has virtually abandoned his work. Under such circumstances, it cannot be said that the employer should initiate the disciplinary proceedings against the Petitioner and compensation should be given to him.

12. I find much force in the contention of the Respondent because even though the Petitioner has stated in the claim statement that he has applied leave for 15 days and left India on 29-12-93 with permission, he has not produced any satisfactory evidence that he has applied for leave and left India. Though he has stated that his overstay at Sri Lanka was not due to his misconduct or offence, but only under the Sovereign Act of the Govt. of Sri Lanka, since his absence is unauthorised and since he has not informed the same to the employer, it cannot be said that the employer has to follow the procedure laid down under law by initiating departmental action against the Petitioner.

13. Again, the learned counsel for the Petitioner argued that even assuming for argument sake that the employer has got every right to remove the name of the Petitioner from the rolls in the circumstances stated by the Petitioner, since the termination is a retrenchment, the employer must follow the mandatory provisions under section 25F of the I.D. Act and therefore, compensation must be awarded to the Petitioner and further the retirement benefits namely gratuity and also other benefits were also not given to the Petitioner. Under such circumstances, it cannot be said that the Petitioner has absented for his work and left the services of the 2nd Respondent.

14. Though, I find some force in the contention of the learned counsel for the Petitioner, since the 2nd Respondent association was taken over by the 1st Respondent by a settlement under Ex. M1, it cannot be said that the 1st Respondent is liable to pay the compensation.

15. Further, the learned counsel for the 1st Respondent contended that the 1st Respondent was liable to absorb those workmen and staff of the 2nd Respondent Association, referred to in the said settlement under Ex. M1, the 1st Respondent agreed to take over the 1990 workmen and staff of the 2nd Respondent Association and the Petitioner was not one of the workmen covered by the settlement dated 22-12-99. Therefore, the 1st Respondent is neither answerable to the claim of the Petitioner nor liable to take the Petitioner into employment.

16. I find much force in the contention of the 1st Respondent because, the 1st Respondent is liable only under the Settlement entered into between the 2nd Respondent and the said settlement is only with regard to 1990 workmen and the staff of 2nd Respondent association. It is clear that the settlement does not contain the name of the Petitioner as a workman. Under such circumstances, I find the 1st Respondent is not liable and is not answerable to the claim of the Petitioner. With regard to 2nd Respondent, it is contended that the non-employment of the Petitioner with the 2nd Respondent, the action was taken by the 2nd Respondent since the Petitioner was absent for more than six months and since his absence was unauthorised, the name of the Petitioner was removed from the rolls and under such circumstances, the 2nd respondent is not answerable to the claim of the Petitioner and as it is now there is no 2nd Respondent association and therefore, the 2nd Respondent is also not liable for the claim of the Petitioner. Though the argument seems to be good, I find there is no point in the contention, because even assuming for argument sake that the action taken by the 2nd Respondent is valid, since the 2nd Respondent has terminated the services of the Petitioner, he has to pay compensation to the Petitioner. It is further contended that the retirement benefits have not been given to the Petitioner. Therefore, I find the Petitioner is not entitled to reinstatement in the circumstances shown before this Tribunal and he is only entitled for compensation from the 2nd Respondent alone and I find the Petitioner is entitled for retrenchment compensation as per the Act.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

17. In view of the reasons stated above, I find the Petitioner is entitled to only retrenchment compensation as per Act, that too only against the 2nd Respondent. I therefore, direct the 2nd Respondent to pay the retrenchment compensation to the Petitioner as per law

within a period of three months from the date of receipt of this Award. No Costs.

W 10 Nil

Xerox copy of the identity card of the Petitioner

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 25th May, 2004.)

For the II Party/
Management

K. JAYARAMAN, Presiding Officer

Ex. No. Date Description

Witnesses Examined :—

M 1 22-12-99 Xerox copy of the memorandum of Settlement u/s. 12(3)

For the I Party/Workman : WW1 Sri Deva Asirvatham

M 2 12-11-98 Xerox copy of the letter from Petitioner to 1st Respondent

For the II Party/
Management : MW1 Sri S. Lasington
Femando

M 3 27-07-01 Xerox copy of the conciliation failure report

Documents Marked :—

M 4 09-10-01 Xerox copy of the letter from 1st Respondent to Ministry of Shipping

For the I Party/Workman :—

Ex. No. Date Description

M 5 16-07-94 Xerox copy of the letter from Petitioner to Respondent

W 1 16-07-94 Xerox copy of the letter from Petitioner to Tuticorin Stevedores Association

M 6 31-12-93 Xerox copy of the representation of Petitioner to II Party

W 2 11-02-96 Xerox copy of the letter from Petitioner to Tuticorin Stevedores Association

M 7 Nil Xerox copy of the representation of Petitioner's wife to II Party

W 3 Nil Extract of passport of the Petitioner

M 8 10-05-94 Notice issued to I Party by RPAD

W 4 11-08-99 Xerox copy of the letter from Petitioner to 1st Respondent

M 9 Nil Returned postal cover of above notice

W 5 22-10-99 Xerox copy of the 2A petition filed before Assistant Labour Commissioner (Central)

M 10 15-06-94 Notice issued to 1st party

W 6 08-12-99 Xerox copy of the counter filed by Tuticorin Stevedores Association

M 11 25-06-94 Xerox copy of the paper publication in Daily Thanthi

W 7 22-01-00 Xerox copy of the reply filed by Petitioner before Assistant Labour Commissioner (Central)

M 12 04-03-96 Xerox copy of the letter of Petitioner enclosing landing certificate

W 8 15-02-00 Xerox copy of the letter from Petitioner to Tuticorin Port Trust Cargo Handling Labour Pool

M 13 01-08-94 Xerox copy of the letter from Respondent to District Collector & DSP

W 9 21-08-00 Xerox copy of the minutes of series & conciliation

M 14 15-11-94 Xerox copy of the reply from Collector

(2) 12-10-00 Xerox copy of the minutes of conciliation

M 15 12-11-98 Xerox copy of the letter from Petitioner to Respondent No. 2

M 16 09-10-01 Xerox copy of the letter from 1st Respondent to Ministry of Shipping

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडिया गवर्नमेंट मिनट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 5/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-16011/1/2000-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2001) of the Central Government Industrial Tribunal/Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of India Government Mint and their workman, which was received by the Central Government on 29-7-2004.

[No. L-16011/1/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B.Sc., LL.B., Presiding Officer

Dated the 19th day of July, 2004

BETWEEN:

The General Secretary,
Hyderabad Mint Staff Association,
Mint Compound, Saifabad,
Hyderabad-500 004

... Petitioner/Union

AND

The General Manager,
India Government Mint,
Mint Compound, Saifabad,
Hyderabad.

... Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya
Sree, P. Sudheer Rao & B.
Shivakumar, Advocates

For the Respondent : Shri B. Raja Vardhan Reddy,
Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-16011/1/2000-IR (DU) dated the 27-12-2000

referred the following dispute under section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the management of India Government Mint and their workman.

SCHEDULE

"Whether the action of the management of India Government Mint, Hyderabad justified in stopping payment of OTA to staff whose basic pay exceeds Rs. 2,200 p.m. (pre-revised)? If so, what remedy they are entitled to?"

The reference was registered as Industrial Dispute No. 5/2001 and notices were issued to the parties.

2. The brief averments mentioned in the claim statement are : That the Petitioner union is registered under the Trade Unions Act bearing No. B-1307 on 14-12-1983. All the staff/employees of the I.G. Mint are members of the Petitioner union and it is a recognized by the Management.

3. That the I.G. Mint, Hyderabad is engaged in the manufacture of coins, silver medals, gold medals etc. The establishment is registered under the Factories Act. There is continuous manufacturing activity and all the employees working in the Mint are workmen as defined under Section 2(1) of the Factories Act. The employees working in the I.G. Mint are being extended the facilities under the Factories Act and various other industrial laws ever since the inception of the factory. That the employees are entitled to over time wages as per Sec. 59 of the Factories Act. As per Sec. 59 of the Act any worker who works for more than 9 hours in any day or for more than 48 hours in any week is entitled to wages at the rate twice his ordinary rate of wages. Under Sub-section 2 of Sec. 59. The rate of wages have been defined which includes basic wage plus such allowances including cash equivalent to the advantage accruing through concessional sale to workers the food grains and other articles. As the worker for the time being entered into, but does not include the Bonus and wages for over time work. Thus, the workmen are entitled to twice the rate of wages which is inclusive of basic pay and all other allowances.

4. It is submitted that some of the employees working in the mint have approached the Labour Court, Hyderabad in C.M.P. No. 28/70 and batch under Sec. 33 (C) (ii) of Industrial Disputes Act claiming computation of over time wages for the workers working in the I.G. Mint. The Labour Court, Hyderabad by its order dated 9-8-1971 held that the I.G. Mint is a factory as defined under Sec. 2 M of the Factories Act as the workers are entitled to the over time wages in accordance with the provisions of Factories Act and allowed the claim by directing the I.G. Mint to pay the over time wages. A writ was filed challenging the said order vide W.P. No. 5082/71 which was dismissed by the Hon'ble High Court of A.P. Again writ appeal No. 884/73 was also dismissed by the Hon'ble High Court of A.P. The S.L.P.

No. 44/76 filed before the Hon'ble Supreme Court was also dismissed by order dated 11-2-76. This all the employees working in the Mint have been extended the overtime wages in accordance with the provisions of the Factories Act.

5. The Respondent issued a notice on 2-5-2000 communicating the office memorandum No. 3/10/99-CY.I (SPP), dated 11-4-2000. In the office memo dated 11-4-2000 while referring to the letter of the I.G. Mint dated 3-4-2000 issued clarificatory orders that the staff whose basic pay exceed the ceiling limit of Rs. 2,200 per month in the pre-revised scales of pay are not entitled for any overtime allowance and directed to stop payment of over time allowance to such of those employees forthwith.

6. It is submitted that the Respondent vide proceedings dated 11-4-2000 sought for clarification with regard to payment of overtime allowance to the employees drawing Rs. 2200 and above basic pay (pre-revised). The clarificatory Note also refers to payment being made by I.G. Mint, Calcutta and Bank Note Press Dewas to its employees who are drawing basic pay in the pre-revised scales of Rs. 2200 and above. Without reference to the provisions of the Factories Act and without reference to the practice and the procedure which is being followed in the respondent factory ever since its inception, the memorandum dated 11-4-2000 was communicated to stop payment of overtime allowance to such of the employees who are exceeding the ceiling limit of Rs. 2200 per month in the pre-revised scales of pay. The said clarification is only illegal and contrary to the provisions of the Factories Act.

7. It is submitted that in the Respondent establishment there are about 1000 workers working, out of which 150 are categorized as Class 'C' and 'D' category. Even among Class 'C' and 'D' categories, only few employees are drawing more than Rs. 2200 in the pre-revised scales. Thus except the few employees who are numbering to about 20 are being deprived of overtime allowance, whereas all other workmen including the employees in the Category 'C' and 'D' are being extended the overtime allowance. That there is no provision in the Factories Act prescribing the wage ceiling limit for denial of overtime allowance. Under Sec. 59 of the Factories Act, all the employees who are required to work beyond 48 hours in a week or 9-00 hours in any day are entitled to overtime wages twice the ordinary rates of wages. Hence, the prescription of the ceiling of Rs. 2200 in the pre-revised scales of pay depending on their category and length of service. Only in the event of reaching the scale of pay of Rs. 2200 depriving them of overtime wages is only irrational and baseless. The employees Basic Pay will be raised depending upon the rate of annual increment and the scale in which he was fixed. However, there is no change in the nature of his duties irrespective of the scale of pay payable to him. Thus, the action of the Respondent is depriving the overtime allowance to only such of the employees whose

basic pay is Rs. 2200 or above in the pre-revised scales is discriminatory and arbitrary.

8. It is submitted that in respect of the employees working in I.G. Mint, Mumbai Currency Note Press, Nasik, India Security Press, Nasik, overtime allowance are being paid irrespective of the wage ceiling. Therefore, there is no rational in depriving the overtime allowance to the employees working in the Respondent establishment. That the Respondent has been paying the overtime allowance. When the industrial dispute was raised before the Regional Labour Commissioner (C), Hyderabad. The Petitioner union has issued a strike notice dated 5-5-2000 proposing to go on indefinite strike on or after 26-5-2000 on the issue of stoppage of overtime allowance on the basis of the notice displayed by the Management dated 2-5-2000 to such of the employees whose basic pay exceeds ceiling limit of Rs. 2200 per month in the pre-revised scales. On this strike notice, the Assistant Labour Commissioner (C), Hyderabad has taken up the matter under conciliation proceedings and issued notice dated 5-5-2000 fixing the conciliation proceedings on 9-5-2000. It was also notified to the Management about the obligations under Sec. 22 and Sec. 33 of the I.D. Act. It was further directed to maintain the *status quo* with regard to the dispute in question until conclusion of the conciliation proceedings. In spite of the receipt of the notice, the Management has failed to release the overtime allowance to such of those employees who have worked over and above the normal hours of work from 11-4-2000.

9. That in the meeting held on 9-5-2000 the conciliation officer concluded that the Management has violated the provisions of the I.D. Act, 1947 and directed the Management to pay overtime allowance from 11-4-2000. However, the Management is failed to comply with the directions and maintain the *status quo*. Hence, the action of the Management in stopping the overtime allowance from 11-4-2000 is illegal and irrational. Hence, they may be directed to pay the overtime allowance even to those employees whose basic pay exceeds Rs. 2200 from 23-6-2000.

10. A counter was filed stating that the Respondent is carrying out the sovereign functions of the State and as such cannot be termed as 'Industry' for the purposes of I.D. Act, 1947. That this is not the single union, there are three moral unions and once Engineers association. The Petitioners are representing a part of the employees but not all the employees. That the contention of the Petitioners that they are workers as defined under Sec. 2(1) of the Factories Act is incorrect. Further contention that they are entitled under Sec. 59 of the Factories Act for overtime allowance is also incorrect. Further the pay packets have been substantially increased and, therefore, the Government of India vide O.M. No. 3/10/99-Cy. 1 (SPP) dated 11-4-2000 issued orders that they are not entitled for overtime

allowance. In the light of the dispute raised before conciliation machinery the matter was again referred to the government which again clarified through a letter dated 28-6-2000 that overtime allowance is not permissible to the staff drawing more than Rs. 2200/- in the pre-revised scale. It is a policy decision to withdraw the overtime facility. Further the functions of the Petitioner is that of a managerial functions. They are not at all workmen under the I.D. Act. Further, the Industrial Tribunal (Central) held in ID 35/98 vide award dated 28-12-98 held that even if the Petitioners are not officers, if they are drawing more than Rs. 1600 per month coupled with supervisory functions over a lot of people subordinate they cannot be workmen. The I.D. Act is silent about the overtime. The second schedule mentions customary benefits. The claim of the overtime is not a customary benefit. Hence, the contention of the Petitioners that is the contravention of the Factories Act, 1948, irrational and baseless is not correct. The decision was taken unit-wise is not correct and it is not correct to compare with the other units as the Petitioners have filed and raised industrial dispute before the conciliation machinery individually. The Hon'ble High Court of A.P. held in W.P. No. 1308/1979 that no notice need be given. Therefore, there is no violation of any provisions of law. Further, it is submitted that the action on the part of the Respondent is a policy decision. Hence, the claim petition may be dismissed.

11. The Petitioner union examined Sri M. Prakasha Rao, Head Clerk, General Secretary, Hyderabad Mint Staff Association, Hyderabad as WW1 who deposed that the Mint was paying overtime allowance to all the employees, i.e., NGOs, without any limitation of basic pay. Ex. W1 is the registration certificate of the union. Ex. W2 is the copy of the Judgement of the writ holding that the employees of the Mint are workmen under the definition of I.D. Act, 1947. The Hon'ble Supreme Court confirmed the same vide Ex. W3. Government of India issued notification vide Ex. W4 stating that overtime allowance is payable only to those whose basic pay does not exceed Rs. 2200/-, pre-revised. From 1-1-96 all the employees of the four mints in India have opted for new scales. Hence, there was not need to mention pre-revised scales. Mumbai Mint is still paying overtime allowance like previously. Asking for maintenance of *status quo* vide Ex. W6 which was not complied with. The under Ex. W7 the Management agreed before Assistant Labour Commissioner (C) that they will maintain *status quo* and paid the arrears upto 22-6-2000. Vide Ex. W8 dated 9-6-2000 they agreed to pay till a decision taken by DGM that he filed a rejoinder Ex. W9 to Assistant Labour Commissioner(C). After 22-6-2000 they stopped paying overtime allowance. The Management issued another order dated 7-7-2000 vide Ex. W10 asserting to implement the order Ex. W4. On 10-7-2000 there was another conciliation which ended in failure. Failure report is Ex. W11. They made representation to Assistant Labour Commissioner (C) vide Ex. W12. Ultimately, the Government

referred this to the Hon'ble Tribunal. That in 1970 they have approached the Labour Court vide CMP No. 28 to 118 of 1970 and 157 to 168 of 1970 where the Labour Court ordered for payment of overtime allowance vide Ex. W13. The Department filed Writ Petition against Ex. W13 which was upheld by the order Ex. W2. A workman is a workman irrespective of the pay he draws. This is a discrimination. Before Ex. W4 they did not consult the union and took a unilateral decision. Sanctioned strength of the organization is also 1150 out of which officers are 25, workmen 940 and the rest are Group C&D. There is no provision of Factories Act for keeping a ceiling on basic salary for overtime allowance. As per Sec. 59 of the Factories Act those who are working for 48 hours or more are entitled to get double over time allowance and he again repeated that they have to be paid under the Factories Act.

12. In the cross examination he deposed that he is a member of the Petitioner association from December, 1983. He knows about the designations and nature of duties of the persons covered by Ex. W13 of the Labour Court, Hyderabad. It is not correct to suggest that the persons referred in Ex. W13 are not members of the Petitioner union. That he gets Rs. 9500/- gross salary and Rs. 5000. That whose basic pay is upto Rs. 6799 get over time allowance those whose pay is Rs. 6800 or above do not get over time allowance. About 11 persons are benefited if the ID is allowed. Some are Engineers, Accountants and Assistant Superintendents. It is not true to suggest that all of them are having supervisory powers and that they come under the definition workman. He has filed any record to show that the said 11 persons worked as such.

13. WW2 Sri Avami Prasad, Engineer in Respondent's office deposed and said that he is one of the affected parties and also stated that he is a member of the union. In the cross examination he deposed that he is a diploma holder in mechanical engineering. That he will not be subjected to search while coming and going out of the Mint. For all the workers the security staff will search them. That he received Rs. 15000 gross salary including production incentive of Rs. 3400. That he approached the Hon'ble Central Administrative Tribunal. Mr. Vidyasagar Rao is their Advocate. He agreed that his job is supervisory. But now he further added that as sophisticated machinery no fresh recruitment of qualified personnel is being done. He also have to do the work of a workman inspite of being an Engineer.

14. Sri Mohd. Abdul Ameer, Bullion Accountant with the Respondent organization deposed as WW3. He deposed that they are custodians of the material, that they have to come half an hour early before the work starts and give the raw material and again after receiving the finished product they have to leave late later than the operative staff. That a new unit of the Mint was set up at Cherlapally and their staff is involved in shifting of material from the main mint to the new mint. This duty also involves to give

the finished coins to Reserve Bank of India main office. In the cross examination he deposed that he is not having a separate cabin but intercum telephone is provided to him. That his gross salary is Rs. 9000/-. That even now he is getting over time allowance but seniors are not getting. He did not agree with the proposals that those who are not getting over time allowance do not come under the definition of workman but under supervisory category.

15. The Management examined the Administrative Officer Sri K. Babu Rao as MW1. He deposed that out of 11 persons in this case 9 are engineers. Petitioner No. 10 is working as Assistant ASSAY Superintendent, Petitioner No. 11 is senior accountant. These 11 Petitioners were impleaded after the reference was made from the union and he marked various documents from Ex. M3 to M11 and M11A. He further stated they are not working over time and they are not workmen.

16. In the cross examination he deposed that he is an Administrative Officer since his appointment he is receiving over time allowance whenever his Department engaged on over time. He said that he is not aware whether the other three mints in India are paying over time allowance. The Petitioner were not asked to do over time work after 7-7-2000.

17. On the appeal of the Petitioner a letter was addressed to Government of India, Ministry of Finance, Department of Economic Affairs wherein the Ministry of Finance has clarified that as a policy decision of the Government of India the Department conveyed to all the Mints to stop payment of over time allowance to those staff whose basic pay exceeds Rs. 2200 per month in pre-revised scale. That Mumbai Mint alone is continuing to make over time allowance to such of those staff whose basic pay exceeds Rs. 2200 per month in the pre-revised scale as per Sec. 59 of the Factories Act, 1948 and Section 70 Chapter 11 of Bombay Shops & Establishment Act, 1948 that they are seeking the advice of Ministry of Law with regard to applicability of the Bombay Shop & Establishment Act, 1948 to the workmen of Mumbai Mint and possibility of withdraw of over time allowance to workmen whose basic pay exceeds Rs. 2200.

18. It is argued by the Learned Counsel for the Petitioner that the order in CMP No. 28/70, which was confirmed by the Hon'ble Supreme Court of paying over time allowance. That the Government stopping payment by issuing a circular that hardly there are 20 employees who are being deprived of over time allowance whereas all others getting. That Sec. 59 of the Factories Act is applicable and further the I.G. Mint, Mumbai is paying as per the letter of the Under Secretary to the Government of India, Ministry of Finance, addressed to Hon'ble Tribunal on 31st July, 2003. Further mint is a factory, the officers or inspectors of factory used to inspect. Hence, they may be ordered to pay over time allowance as prayed for.

19. The Respondent argued that this is a policy decision and communication received from the Under Secretary, Ministry of Finance really state that neither the Kolkata Mint is paying nor the Noida Mint is paying nor the Hyderabad Mint is paying over time allowance, except Mumbai Mint which is paying because it comes under the Shops & Establishments Act and the Ministry of Finance is taking steps to bring uniformity. Sec. 73 of the A.P. Shops & Establishments Act grants an exemption of the implementation of the said Act under Sec. 73(1) to the Central and State Government local authorities, Reserve Bank of India, a Railway administration operating any Railway as defined in Clause 20 of Article 66 of the Constitution and Cantonment Authorities. Hence, A.P. Shops & Establishments Act does not apply to the Respondent and its employees, hence, the petition may be dismissed.

20. It may be seen that no doubt there is exemption under A.P. Shops & Establishments Acts, Sec. 73(1)(b) which specifically excludes establishment under the Central and State Governments, Legal Authorities..... The next question is we have to see the definition of worker, let us see the definition of worker under Sec. 2(1) of the Factories Act, 1948 which reads thus, "Worker means a person employed directly or by or through any agency whether for remuneration or not, in any manufacturing process or in cleaning any part of the machinery or premises used for manufacturing process or in any other kind of work incidental to or connected with the manufacturing process or the subject of the manufacturing process" and let us also see the definition of Factory under Sec. 2 (m) which reads thus, "(i) Whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or (ii) Whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.....". It may be seen that in CMP 28/70 and batch decided by the Presiding Officer of the Labour Court, Hyderabad on 9th August, 1970 also against the Management of Mint for overtime which was by some clerical staff and other workmen and the Labour Court allowed it. The writ against it was dismissed by the Hon'ble High Court of A. P. and SLP was not admitted by the Hon'ble Supreme Court.

21. It may be noted that now that dispute cannot be raised that they are not workmen because if they are not workmen why they were being paid over time allowances. It is an admitted fact by the Respondent that over time allowance is withheld in view of the Government orders. Further in the letter from the Ministry of Finance addressed to this Court, they have mentioned that there are Four

Mints, i.e., the Mints at Hyderabad, Kolkata, Noida and Mumbai. That only Mumbai Mint is paying due to Section 59 of Factories Act, 1948 and Section 70, chapter 2 of the Bombay Shops and Establishments Act, 1948. Therefore, only due to the application of Bombay Shops and Establishments Act, which is not applicable in Andhra Pradesh, because in A.P. Shops and Establishments Act, 1988 there is no such provision. Now the question is that the Kolkata and the Noida Mints are also not paying over time allowance. So whether we can direct payment to these persons under Sec. 59 of the Factories Act? No doubt as per the letter from the Ministry of Finance itself just now referred above dated 31st July, 2003 it is admitted that under Sec. 59 of the Factories Act and Section 70 of the Bombay Shops and Establishments Act over time allowance is allowed. It may be seen that Factories Act is applicable throughout India and Section 59 is also applicable. There is no exemption provided to the Mint. Hence, I am of the opinion that although A.P. Shops and Establishments Act does not provide and it is not registered under A.P. Shops and Establishments Act, yet, as it is a factory within the definition of Factories Act, 1948, Sec. 59 will be applicable. Hence, the reference is answered as follows: "The Management of I.G. Mint, Hyderabad is not justified in stopping payment of OTA to staff whose basic pay exceeds Rs. 2200 p.m. (Pre-revised) and they are entitled for OTA." The letter No. 3-10-99-Cy. 1(SPP), dt. 11-4-2000 (Ex. M3) and letter dated 3-4-2000 (Ex. M4), stopping of over time allowance will not empower the Respondent, which is issued in contravention of Sec. 59 of the Factories Act, 1948 to stop the over time allowance. Hence, the reference is answered as above declaring the stoppage of over time allowance as illegal. The Management is directed to pay the arrears within 30 days from the publication of this Award and continue to pay thereafter. If the arrears of over time allowance are not paid within 30 days after publication of this Award they will be entitled to 6% p.a. interest on the arrears of over time allowance.

Award passed accordingly, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of July, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner : Witnesses examined for the Respondent:

WW 1: Sri M. Prakasha Rao MW1: Sri K. Babu Rao

WW 2: Sri Avami Prasad

WW 3: Sri Mohd. Abdul Ameer

Documents marked for the Petitioner

Ex. W1: Copy of registration certificate of the Petitioner union

- Ex. W2: Copy of the Judgement in WP No. 5082/1971
- Ex. W3: Copy of order in SLP No. 44/1976
- Ex. W4: Copy of Government of India's notification dt. 2-5-2000 reg. OTA.
- Ex. W5: Copy of notice by the union to the Management dt. 5-5-2000
- Ex. W6: Copy of Ir. No. 8/9/2000-E2 by ALC(C)-I to maintain status quo till conclusion of conciliation dt. 5-5-2000
- Ex. W7: Copy of minutes of meeting held on 9-5-2000 between Management and the union by the ALC(C)-I, Hyderabad
- Ex. W8: Copy of minutes of meeting held on 9-6-2000 between Management and the union by the ALC(C)-I, Hyderabad
- Ex. W9: Copy of Ir. to the ALC(C) by the Union dt. 9-6-2000
- Ex. W10: Copy of order No. 1-248/99-2000/I/Admn/1725 dt. 7-7-2000 by the Management
- Ex. W11: Copy of order in Minutes of meeting held on 10-7-2000 before the ALC(C)
- Ex. W12: Copy of Ir. to the ALC(C) by the union dt. 7-8-2000.
- Ex. W13: Copy of order in CMP No. 28/70 and batch
- Ex. W14: Copy of order by Hon'ble C.A.T. in OA No. 1021/2000 dt. 2-2-2001

Documents marked for the Respondent

- Ex. M1: Copy of representation by Jt. secy. S. of MINT Engineers Association, Hyderabad dt. 4-5-2000
- Ex. M2: Copy of representation to the Management for revival of OTA Ir. dt. 8-7-2000
- Ex. M3: Copy of Ir. No. 3/10/99-Cy. 1(SPP) dt. 11-4-2000
- Ex. M4: Copy of Ir. dt. 3-4-2000 by the Respondent to the D/o of Economic Affairs.
- Ex. M5: Copy of Ir. Dt. 28-6-2000 by the General Manager to the D/o Economic Affairs for clarification
- Ex. M6: Copy of D.O. Ir. No. 3/10/99-Cy. 1(SPP) dt. 6-7-2000
- Ex. M7: Copy of order No. 1-248/99-2000/I/Admn/ dt. 7-7-2000
- Ex. M8: Copy of Ir. No. F. 15/18/MSP(A)/64 dt. 14-7-66

- Ex. M9 : Copy of Lr. No. F.5(38)-72-Cy dt. 13-10-72
- Ex. M10 : Copy of Lr. dt. 1-5-74 reg. ceiling for payment of OTA.
- Ex. M11 : Bunch of attendance registers
- Ex. M11A : Attendance register for certain workers for September, 2002 as on 29-9-2002.

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 24/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं. एल-40012/104/2003-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of D/o Post and their workman, which was received by the Central Government on 29-7-2004.

[No. L-40012/104/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT : Shrikant Shukla,
Presiding Officer

I.D. No. 24/2004

Ref. L-40012/104/2003 IR(DU)

Dated, 20-1-2004

BETWEEN:

1. Supdt. of Post Offices,
Deptt. of Posts Tihri Division,
New Tehri, Garhwal (Uttaranchal)
2. The Chief Post Master General,
Deptt. of Posts,
Uttaranchal Division, Dehradun

AND

Harish Prasad Bhatt S/o Late Ghanshyam Bhatt
through Bhartiya Mazdoor Sangh,
32, Chakrata Road, Dehradun

AWARD

The Government of India, Ministry of Labour vide their order No. L-40012/104/2003-IR (DU) dated 20-1-2004 has referred the following issue for adjudication to Presiding Officer, CGIT-cum-Labour Court Lucknow;

“WHETHER THE ACTION OF THE MANAGEMENT OF SUPDT. OF POST OFFICES, THEIR IN TERMINATING THE SERVICES OF SH. HARISH PRASAD BHATT S/O LATE SH. GHANSHYAM BHATT JEEP DRIVER W.E.F. 1-2-2003 IS JUSTIFIED? IF NOT TO WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

The worker Harish Prasad Bhatt, the Supdt. of Post Office, Tehri Garwal and the Chief Post Master General, Dehradun were endorsed copy of order of Government of India.

The parties were directed to file statement of claim complete with the relevant documents list of reliance and witnesses with the Tribunal within 15 days of the receipt of this order of reference and also forward a such statement to each one of the opposite parties involved in this dispute under rule 10(B) of the Industrial Dispute (Central) Rules 1957. The said order was received in CGIT-cum-Labour Court, Lucknow on 22-3-04. The court waited for statement of claim till 30-4-04 but no statement of claim has been filed by the worker. The court issued registered notices to the workman Harish Prasad Bhatt S/o Late Ghanshyam Bhatt through Bhartiya Mazdoor Sangh, 32, Chakrata Road, Dehradun on 6-5-04 registry No. 20761. 30-4-04 was fixed for filing statement of claim by the workman. The workman did not file the statement of claim since registered article was not received therefore it was believed that the worker is duly served. In the circumstances notice were issued to Supdt. Post Offices, New Tehri, Uttaranchal and Chief Post Master General, Dehradun and the next date was fixed on 18-6-04. Registered notices were sent as aforesaid on 21-6-04 vide registry no. 20851, 20852. Today i.e. 21-7-04 the Authorised Representative of the Supdt. Post Offices, Tehri Garhwal filed authority letter A2-6. Heard Sri Sunil Sharma he stated that the Chief Post Master General and Supdt. Post Offices have not file any written statement for the present case because Sri Harish Prasad Bhatt was not regularly appointed Jeep Driver and therefore no question arises to his termination. He has argued that if the workman has not appeared and has not filed statement of claim the Supdt. of Post Offices Tehri Garhwal and Chief Post Master General, Dehradun is not required to file any written statement. It was for the worker who challenges the validity of order dt. 1-2-2003 to substantiate the grounds of his claim. It is for the worker to produce evidence to prove his case. If the workman fails to appear or to file statement of claim of produce evidence, the disputes referred can not be answered in favour of the workman and he would not be entitled to any relief. So the instant case the dispute has

been referred to this court at the instance of the aggrieved workman. Consequently, the burden lay on the workman to set out the grounds challenging the validity of termination order and to prove that termination order was illegal. The workman did not appear nor produced any evidence with the result that there is no material before this court for recording the findings of the order of the termination passed by the employer was unjustified or illegal. In the absence of any evidence of the workman the Tribunal had no jurisdiction to hold the order of termination is illegal. The representative of the opposite party have referred the case law FLR 198 (29) page no. 194 (Allahabad High Court) between V.K. Raj Industries and Labour Court (I) & others.

I have gone through the case law referred by the representative present before me. Since the workman has fail to file statement of claim & has failed to produce any evidence orally or documentary, therefore the issue referred can not be answered. No claim award is accordingly passed.

LUCKNOW:

21-7-04 SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2004

का.अ. 2116. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एलसीआईडी-211/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-40025/17/2004-आई.आर. (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-211/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of D/o Telecom and their workmen, which was received by the Central Government on 29-7-2004.

[No. L-40025/17/2004-JR (DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 25th day of June, 2004

Industrial Dispute L.C.I.D. No. 211/2002

BETWEEN:

Smt. P. Laxmamma,
W/o P. Muthaiah,
P/T Sweeper, Tele-Exchange,
Munugodu-508244,
Nalgonda Distt.

....Petitioner

AND

The General Manager,
Bharat Sanchar Nigam limited,
Telecom (BSNL),
Nalgonda-508050.

...Respondent

Appearances:

For the Petitioner : M/s. C. Suryanarayana &
P. Venkateswara Rao, Advocates

For the Respondent : Shri R.S. Murthy, Advocate

ORDER

This is a case taken under Sec. 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 211/2002 and notices were issued to the parties.

2. This petition was filed for reinstatement of the Petitioner concerned with the Respondent organization. Respondent filed counter. Later, after Chief examination of the Petitioner, the Petitioner filed an I.A. which was numbered as I.A. 28/2004 for correction of her date of initial appointment in the main petition filed by her. It may be seen that the entire case changes if the said amendment is allowed. As the I.A. No. 28/2004 is dismissed, this petition is dismissed with liberty to file fresh petition with correct facts. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 25th day of June, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner :

NIL

Witnesses examined for
the Respondent :

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 29 जुलाई, 2004

AWARD

का.आ. 2117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी. 13/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-40025/18/2004-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-13/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of D/o Telecom and their workman, which was received by the Central Government on 29-7-2004.

[No. L-40025/18/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 8th day of June, 2004

INDUSTRIAL DISPUTE L.C.I.D. NO. 13/2002

(Old I.D. No. 205/99 Transferred from Labour Court-II, Hyderabad)

Between :

Sri S. Bhaskar,
C/o Sri C. Suryanarayana,
1-2-593/50, Srinilayam,
Sri Sri Marg, Gaganmahal,
Hyderabad—500 029.

...Petitioner

AND

The Telecom District Manager,
Nizamabad Telecom District,
Nizamabad—503 050.

...Respondent

Appearances :

For the Petitioner : M/s. C. Suryanarayana & P.
Venkateswara Rao,
Advocates

For the Respondent : Sri R. S. Murthy, Advocate

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 by the Labour Court-II, Hyderabad in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 205/99 and renumbered in this Court as L.C.I.D. No. 13/2002.

2. The brief facts as averred in the petition are : That the Petitioner joined as casual mazdoor w.e.f. 1-6-1984 but formalized his selection by letter No. E. 45/84-85/18 dated 2-1-85. The Petitioner was continuously employed till and inclusive of 31-3-1986. Thus, he has put in more than 240 days service in the year preceding 31-3-1986. But he fell sick and left for his native village Ballupalli near Arthaveedu in Prakasam District. He recovered and made a representation dated 12-3-88 requesting the Respondent to issue instruction to the SDOT, Armoor to pay his the arrear of his wages from 5-2-86 to 31-3-86. yet, he was not admitted to duty. Thereafter, he submitted reminders to the Respondent on 30-11-96 and 25-2-99. Therefore, he may be reinstated with all back wages.

3. A counter was filed. That the Petitioner worked only for 30 days during June, 1984 as a casual Mazdoor. He never worked thereafter. The allegation that he worked till 31-3-1986 is false and baseless. He never worked for 30 days with the Respondent. He is not entitled any wages for the period from 5-2-86 to 31-3-86 on the well-known principle of "no work no pay". He did not make any representation on 11-4-89, 30-11-96 and 25-2-99. Hence, the petition may be dismissed.

4. The Petitioner examined himself as WW1. Ex. W1 is the letter dated 2-1-85 of the SDOT, stating that the Petitioner possessed employment card No. 2407 of 1984, NCO No. X09-90 dated 12-7-84 of Nizamabad employment exchange was selected as casual mazdoor as being employed beyond 16 KM of the employment exchange as per the P&T Department order dated 23-8-73 cited in the exhibit. He was employed for a total of 533 days from 1-6-84 to 31-3-86 vide Ex. W2 which is original register. That he worked for 533 days. Subsequently he become sick, after 6 months when he returned to Armoor he was not employed. Neither the SDOT nor any authority took him back to service. Thereafter he represented to Telecom District Engineer on 12-3-88 to give instructions to the SDOT, Armoor to readmit his to duty. He also represented for arrears of wages from 5-2-86 to 31-3-86 which is Ex. W3. Then he gave a reminder dated 11-4-89. Ex. W5 is a reminder dated 30-11-96 to the Telecom District Engineer, Nizamabad.

That also did not invoke any response. Subsequently, he gave a reminder on 25-2-99. Again there was no response. He gave a representation. He denies the allegations made in the counter filed by the Respondent. The made false and wild allegations against him. That he prays that the Hon'ble Court may be pleased to declare that he is entitled for reinstatement. In the cross-examination he deposed that he worked at Armoor in the year 1985 under the directions of S.I., Sri T. Elamanda. That he was not given any specific orders by SDOT. He worked with Sri T. Elamanda upto June, 1986. He worked continuously. That he left the work due to ill health. That he is not given any written representation, leave application or medical certificate with regard to the sickness. He left for his native place Bollupalli near Arthaveedu, Prakasam District. Again he approached the S.I. Sri T. Elamanda for work in 1998. He was told that there is no scope. Again he came in 1989 but he was informed that there is no scope. Again he approached in 1996 and 1998.

5. In the re-examination he deposed that SDOT, recruited him as casual mazdoor. His name was included in the muster rolls. S.I. concerned gave the work order along-with the muster roll in which his name was put. Casual mazdoors are entitled to weekly offs after working six days a week. Even his name was in muster rolls he was not being paid for the day or days of his absence for work.

6. The Respondent examined Sri K. Rukmaji, SDE(PR), in the office of General Manager, Telecom District, Nizamabad from 10-9-99 and conversant with the facts of the case. That the record of engagement to 31-3-96 through Ex. W2 could not be verified due to weeding out of the records. Except, 6/84, 7/85 to 10/85 and 12/85. The said exhibit reflected the engagement intermittently on muster rolls and thus there is not retrenchment within the meaning of Sec. 25 F of the I.D. Act. Hence, no notice was issued. That he himself has abandoned the work. He also admitted that he was gamfully employed. Hence, he cannot claim for reinstatement, continuity of service, back wages etc. The I.D. is raised after a lapse of 13 years.

7. In the cross-examination he deposed that he has been working in Nizamabad, Telecom District since 1993. He worked in the District office from 10-9-99 and he was continuing in that office. He is aware of the provision in P&T Financial Handbook Vol.III requiring preservation of vouchers on which workmen wages are paid as permanent record. The Petitioner worked only for one month in June, 1984. On the basis of employment card they gave the Petitioner job as casual mazdoor. After June, he was not engaged because he did not come. According to office record and discussions the Petitioner did not come after June, 1984. Ex. W2 is said to be the book containing number of days or signature of SIT or SDOP. It does not tallying with their records not only the days and signature of the S.I.T or SDOT. He denied that he worked upto 31-3-1986.

In the re-examination he deposed that Ex. M3 is the rule showing that retention period of registered muster rolls is five years. Ex. M4 is the record showing that the Petitioner worked only in June, 1984.

8. It is argued by the Learned Counsel for the Petitioner that the workman was registered in employment exchange. He approached SDOT seeking employment and he was enrolled as casual mazdoor vide Ex. W1 SDO's letter dated 2-1-85. Ex. W2 is his work record from 1-6-84 to 31-3-86 which shows that he worked for 557 days. That when a mazdoor is absent notice should be sent to him. He has fell sick in March, 1986 and he had none to look after him at Armoor on work spot. So he left for his village Bollupalli near Arthaveedu in Prakasam District after informing both the S.I. and SDOP. The workman requested Telecom District Engineer, Nizamabad to pay the wage arrears from 5-2-86 to 31-2-86. Cash Book, as per rules has to be retained for all time, Register of Works, to be retained for 20 years. Labour Pay sheets should be retained for all time. That the said rules have not been amended or altered till date. Any way the rules made under President's authority can be amended only under the President's authority not by executive authority. Therefore, amendments deleting rules 150 to 177 ordered by Department of Telecom are not under the Presidential authority, hence, their deletion is illegal. That the deletion of paragraphs 150 to 177 of P&T Financial Volume III Part one is unconstitutional hence, illegal, null and void. If necessary the matter may be referred over to Hon'ble High Court of A.P. or Hon'ble Supreme Court of India for clarifying the legality or otherwise of the order dated 12-2-99, before award is passed. There is no authority empowered to destroy accounts records. The statement of MW1 that the Petitioner hardly worked or 30 days in June, 1984 as casual mazdoor is absolutely baseless Hence, he is entitled for all the benefits.

9. It is argued by the Learned Counsel for the Respondent that this petition is filed after a lapse of 13 years and his contention that he has been engaged upto 31-3-96 is not capable of being verified due to weeding out of office records as per retention schedules. The Petitioner on his own volition has admitted that he abandoned the work due to sickness. That Sec. 25F is not applicable to the casual employees. That the adequate documents are self-serving records of the Petitioner. Hence, he is not entitled for any relief.

10. It may be seen that Ex. W1 shows that the Petitioner was selected as casual mazdoor from 1-8-84. Ex. W2 is his day book which shows that he worked upto 31-3-86. It may be seen that Ex. W3 is an application dated 12-3-88. Wherein he stated that he is entitled for difference of wages from 5-2-86 to 31-3-86. Ex. W4 dated 11-4-89 retreating the same. Ex. W5 is dated 3-11-96 retreating the same. Ex. W6 is another reminder dated 25-2-99. No doubt there is no proof this these documents having been served.

Yet if they are made up documents, why they should be with such gaps i.e., 1988, 1989, and 1996? And if Ex. W2 is also fake document he could have faked it for more times. So, I am of the opinion that apparently Ex. W2 is a correct documents. But, so far coming to his merits of the case, he is casual employee having approached this Court after the lapse of 13 years meanwhile he has abandoned the service and was sick. But, there is no proof for his sickness. Nothing is filed before this court which clearly goes to show that he was otherwise gainfully employed and he admits in the cross examination that he worked at his native place on daily wages. So I do not think he is entitled for reinstatement or back wages or any other relief, except that whenever in future any casual employees are employed he shall be given preference because even according to MW1 he worked in June, 1984. So taking his date of birth as on 1-6-84 he shall be given preference over others for future employment. It is made clear that there shall be no retrenchment or any disturbance of the persons of the casual employment already in employment and his this applies only to future employment.

11. However, the Petitioner has been retreating the same that he is entitled for difference in wages from 5-2-86 to 31-3-86 and as admitted by the Respondent that the records are destroyed whether the deletion of those rules is constitutional or not is a matter to be decided by the Hon'ble High Court of A.P. and not by me. However, non-decision of the same does not effect the main case of the Petitioner i.e., he is not entitled for reinstatement, continuity of service or back wages. Further, I hold that he is entitled for difference in wages as per the Hon'ble Supreme Court's direction from 5-2-86 to 31-3-86 which shall be paid to the Petitioner within 30 days from the publication of this award failing which he shall be entitled to be paid the said difference of wages along with 6% p.a. interest after 30 days of the publication of this award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 8th day of June, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for Petitioner :	Witnesses examined the for the Respondent :
WW1 : Sri S. Bhaskar	MW1 : Sri K. Rukmaji

Documents marked for the Petitioner

Ex .W1:	Appointment order dt. 2-1-85.
Ex .W2:	Register containing working days particulars of WW1.
Ex. W3:	Copy of representation of WW1 dt. 12-3-88.

Ex. W4:	Copy of representation of WW1 dt. 11-4-89.
Ex. W5:	Copy of representation of WW1 dt. 30-11-96.
Ex. W6:	Copy of representation of WW1 dt. 25-2-99.

Documents marked for the Respondent

Ex. M1:	Copy of DOT New Delhi Lr. No. 270-6/84-STN dt. 22-6-88.
Ex. M2:	Copy of DOT, New Delhi Lr. No. 269-4/93-STN-II (Pt.) dt. 12-2-99.
Ex. M3:	Copy of Appendix-5 showing the rules for destruction of records.
Ex .M4:	Copy of records showing WW1's work particulars in June, 1984.

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2118.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्स्टिट्यूट, आफ फायर इंजीनियरिंग के प्रबंधन के संबद्ध निमोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी. 31/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-14025/3/2004-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2118 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-31/2004) of the Central Government Industrial Tribunal/-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of National Institute of fire Engineering and their workman, which was received by the Central Government on 29-7-2004.

[No. L-14025/3/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 28th day of June, 2004

INDUSTRIAL DISPUTE L.C.I.D. NO. 31/2004

BETWEEN:

Sri Yerra Apparao,
D. No. 27-18-76/1,
Kallupakalu, Poornamarket area,
Visakhapatnam—530 001.

...Petitioner

AND

1. The Flag Officer Commanding-in-Chief,
Eastern Naval Command,
Visakhapatnam-530 014.
2. The Managing Partner,
National Institute of Fire Engineering,
47-3-12, 5th Lane, Dwaraknagar,
Visakhapatnam—530016. ...Respondent

APPEARANCES:

For the Petitioner : Sri B. V. Rao, Authorised
representative

For the Respondent : NIL

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. This is a petition filed by Sri Yerra Apparao, stating that he has worked as Fire Engine Driver from 2-11-2002 to 26-9-2003 for R2. That he was promoted with immediate effect on 25-9-2003. Hence, he prays that he may be reinstated with continuity of service and with all attendant benefits.

3. Meanwhile on receipt of the summons a joint compromise petition was filed by the second Respondent. That the Petitioner has received crossed demand draft Nos. (1) 336778 and (2) 336779 dated 15-4-2004 for an amount of Rs. 25000/- each from his employer M/s. National Institute of Fire Engineering, Visakhapatnam towards settlement amount of all claims pending with the employer in full and final settlement. Demand drafts were delivered in the presence of the authorized representative of the workman. Hence, the award is passed in terms of the compromise with that the Petitioner is entitled for Rs. 50000/- in full settlement of his claim and he has already received and he shall not claim again R1 and R2 in future for the same cause of action for which the petition is filed.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 28th day of June, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for
Petitioner :

NIL

Witnesses examined the
for the Respondent :

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2119 .— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई नं. 1 के पंचाट (संदर्भ संख्या 19/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-31011/16/2002-आई. आर. (एम)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 29th July, 2004

S.O. 2119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of Mumbai Port Trust and their workman, which was received by the Central Government on 29-7-2004.

[No. L-31011/16/2002-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1
MUMBAI**

PRESENT: Shri Justice S. C. Pandey, Presiding Officer

REFERENCE NO. CGIT-19/2002

PARTIES: Employers in relation to the management of
Mumbai Port Trust

AND

Their Workmen

APPEARANCES:

For the Management : Mr. Anchan, Adv.
 For the Workman : Mr. Koynade, Adv.
 State : Maharashtra

Mumbai dated the 22nd day of July, 2004

AWARD

1. This is a reference made by the Central Govt. under clause (d) of Sub-section (1) and Sub-Section (2A) of the Industrial Disputes Act (the Act for short) for resolving an Industrial dispute between Mumbai Port Trust (the Trust for short) and Rama Shankar P. Prasad (the workman for short). The terms of dispute are as follows :

“Whether the action of the management of Mumbai Port Trust in terminating the services of Shri Ramashankar P. Prasad, w.e.f. 7-8-2001 is justified? If not, what relief the workman, Shri Ramashankar P. Prasad is entitled to?”

2. The undisputed facts of the case are that workman was employed as a Cleaner in the labour department of the Trust. He was charge sheeted on 6-1-2000 that he was in the habit of remaining absent without information and without prior sanction. The workman gave reply dated 17-1-2000 and stated that he was absent because of continuous ill health of his wife which ultimately resulted in her death. A departmental enquiry was ordered against the workman as the explanation was found unsatisfactory. The workman participated in the enquiry. The medical certificates submitted by the workman regarding his wife's illness and that of his own were not believed. The workman was held to have committed misconduct. The competent disciplinary authority imposed the punishment of removal from service w.e.f. 17-8-2001. The appeal of workman was rejected. An industrial dispute was raised by the Union. The matter was considered for Conciliation by Asstt. Labour Commissioner Central (III) Mumbai. The conciliation failed and thereafter, the matter was referred to this tribunal. It has been said that there is typographical error in the order of reference. The workman was dismissed on 17-8-2001 and not on 07-8-2001.

3. The workman submitted that he had filed medical certificates showing he and his wife were ill during the period the workman was charged for remaining absent. The punishment therefore, very harsh.

4. In the written statement the prayer of the workman was opposed by fresh. It was pleaded that the workman was on the habit of remaining absent without leave or sanction. It was pointed out that between 1994 to 1999 the workman remained absent for 683 days on 159 occasions. He had got leave for 149 days. The certificates regarding the illness of his wife was that of private doctors.

5. The only question that has been raised as if the findings of facts are perverse and the sentence is disproportionate. The findings are based on the admission of the workman who stated that he remained absent. This tribunal had read report. The findings of facts are not perverse. They are based on evidence record. The workman remained absent from his duties. He was previously warned. The illness of his wife was no excuse for not attending the office. This tribunal does not find that any interference with the punishment of removal from service is called for.

6. The result of the aforesaid discussion this reference is answered by stating that the removal of the workman from service was legal and justified. The workman is not entitled to any relief.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2120.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मर्मगौव पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई नं. 2 के पंचाट (संदर्भ संख्या 47/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-36011/4/2001-आई. आर. (एम.)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 29th July, 2004

S.O. 2120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of Mormugao Port Trust and their workman, which was received by the Central Government on 29-7-2004.

[No. L-36011/4/2001-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI**

PRESENT: Justice S.C. Pandey, Presiding Officer

REFERENCE NO. CGIT-2/47 OF 2001

**Employers in relation to the management of
 Mormugao Port Trust**

- (1) The Chairman,
Mormugao Port Trust,
Mormugao Harbour,
Goa-403 803
- (2) The Dy. Conservator,
Mormugao Port Trust,
Mormugao Harbour,
Goa-403 803.

AND

Their Workmen

The General Secretary,
Goa Port & Dock Employees Union,
Kamgar Bhawan, 5A, F.F. Figuerado Complex,
Vasco-da-gama,
Goa-403 802.

APPEARANCES:

For the Employers : M.B. Anchan, Advocate
For the Workmen : Shri Jaiprakash Sawant,
Advocate.

Mumbai, dated 25th June, 2004.

AWARD

This is a reference made by the Central Government under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) for adjudicating upon the following industrial dispute between the Mormugao Port Trust (The Management for short) and the Goa Port & Dock Employees Union (the Union for short). The terms of the disputes are as follows :

“Whether the action of the Management of Mormugao Port Trust, Goa in proposing change in shift pattern from 12 hours to 8 hours shift in respect of Shore-gang workmen working in Marine Department by way of issuing. Notice of Change dated 30-11-2000 under Section 9A of the I.D. Act, 1947 by the Deputy Conservator, Mormugao Port Trust, Goa legal and justified? If not, to what relief the workmen are entitled?”

2. Today, both the parties jointly filed a Memorandum of Settlement duly signed by the representatives of both the parties and prayed for disposal of the reference accordingly. A copy of the Memorandum of Settlement is enclosed for ready reference of the parties.

3. Since the parties have already amicably settled the matter, it is disposed of by stating that there is no industrial dispute between the parties for passing an award.

JUSTICE S.C. PANDEY, Presiding Officer

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

REFERENCE NO. CGIT-2/47 OF 2001

Mormugao Port Trust

V/s

Workmen

MAY IT PLEASE YOUR HONOUR:

The parties to the above reference have amicably settled the above reference consequent to signing a Memorandum of settlement on 27-10-03, under Sec. 2 (P) of the I.D. Act, 1947 read with Sec. 18(1) of the said Act, between the Deputy Conservator, Mormugao Port Trust, representing the management of M/s Mormugao Port Trust and the two recognised unions operating at this Port i.e. (1) Mormugao Port & Railway Workers Union and (2) Goa Port & Dock Employees Union over reverting back to 12 hrs. shift working for shoregang staff (Copy attended).

It is, therefore, prayed that the above reference may be disposed off accordingly.

Sd/-

Mumbai,

(N. S. Madkaiker)

Dated 25th June, 2004

Secretary

Mormugao Port Trust

Sd/-

Sd/-

(U. Gurav)
President,
Goa Port & Dock Employees
Union,

(Capt. Anil Panjwani)
Deputy Conservator
Mormugao Port Trust

Sd/-

Sd/-

(K.M. Bhagat)
Gen. Secretary
Goa Port & Dock Employees
Union

(J.B. Dhawale)
Dy. Secretary (IR)
Mormugao Port Trust

Sd/-

(M.B. Anchan)

Advocate for

Mormugao Port Trust

MEMORANDUM OF SETTLEMENT

Memorandum of settlement arrived at under Section 2 (P) of the Industrial Disputes Act, 1947 read with Section 18 (1) of the said act between the (1) Deputy Conservator, Mormugao Port Trust, Representing the management of M/s. Mormugao Port Trust and the two recognised unions operating at this port i.e. (1) Mormugao Port and Railway Workers Union and (2) Goa Port and Dock Employees Union over reverting back to 12 Hrs. Shift working for shoregang.

**Representing the
Management**(1) Capt. Anil Panjwani
Deputy Conservator(2) Shri N.S. Madkaikar
Secretary**Representing the
Union**(1) Shri Leonardo Rodrigues,
President/MPRWUShri A.J. Peters
General Secretary/
MPRWU(2) Shri Ulhas Gurav,
President/GPDEU
Shri K.M. Bhagat,
General Secretary/GPDEU**SHORT RECITAL OF THE CASE**

The three shift manning pattern was introduced for shore gang staff in the year 2000 for reducing the expenditure incurred on payment of overtime. However, on account of reduction in manpower, it has not been possible to maintain the full complement and availing the minimum required man power and as a result employers are required to be deployed on O.T. and consequently the target for reducing expenditure on O.T. could not be achieved. The issued has been discussed at length with the representatives of MP&RWU and GP&DEU. After prolonged discussion both the parties have agreed to come to an amicable settlement as per terms of the settlement as mentioned below :

TERMS OF SETTLEMENT

1. The Management and the employees through the recognised unions i.e. M.P. & R.W.U. and G.P. & D.E.U. have agreed to revert/post the "Shore gang" staff on 12 hrs shift pattern.

2. The staff when posted on 12 hr. shift duty, shall be paid 3 hrs. of fixed overtime for each day of work with one hour meal break. Additional overtime will be paid on actual time worked for working during meal break or beyond shift hours.

3. The services of shore gang will be utilised for berthing/unberthing/warping of vessels anywhere in the Port including that at mooring dolphins and on ABG berths. Shoregang shall continue to render their services for water supply to ships, reporting of oil pollution, rigging/unrigging of post gangway, inspection of berths, assisting in emergencies, etc. and any other lawful instructions of the Dy. Conservator or his representatives.

4. The unions shall not take up any fresh issued for reversion/introduction of 12 hr. shift in other sections of Marine Department or other departments of the Port and will withdraw all the matters connected with the shore gang which are pending before ALC, Labour Ministry, Industrial Tribunal and High Court.

5. Without prejudice to the Report of Sharma Committee on the manning scale of shore gang the manning

strength of the shore gang would be as under :

1st Shift

Total Staff : 12 (Including supervisory staff) + 1 Valve Controller till the present incumbent retires.

2nd Shift

Total Staff : 12 (Including Supervisory Staff)

This manning strength will remain valid till implementation of Sharma Committee Report on manning scales or such other lawful orders of the Govt. Thereafter the manning scales will be revised as directed by the said report or orders of the Govt.

6. After reduction in manning scales as indicated at Sr. No. 5, the surplus staff consisting of 7 Lascars who were earlier working as Seamen on flotilla and have opted to work as Lascar in shoregang will be posted as senior relievers on flotilla till turn comes to be re-absorbed in shoregang on retirement of incumbants or due to change in strength in view of Govt's orders or implementation of Sharma Committee report on manning strength.

7. Both the parties have agreed to send the compliance report of the terms of settlement to the ALC (C)/RLC/CLC, Labour Ministry, Presiding Officer/CGIT No. 2. This Agreement will remain valid for a period of 5 years w.e.f. the date of signing of the Agreement.

Signature of the Parties**Representing the
Management**

Sd/-

(1) Capt. Anil Panwani
Deputy Conservator
Marine Dept./MPT.

Sd/-

(2) Shri N.S. Madkaikar
Secretary/MPT**Representing the
Unions**

Sd/-

(1) Shri Leonard Rodrigues,
President/MPRWU

Sd/-

(2) Shri Ulhas Gurav,
President/Goa Port and
Dock Employees Union.

Sd/-

(Shri K.M. Bhagat)
General Secretary/GPDEU**WITNESS**

27-10-03

(M.B. BANSODE) DY. CAO

WITNESS(1) (Mahabir Kamble)
(2) (DEEPAK S. Pansale)

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-11012/10/98-आई. आर. (एम)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 29th July, 2004

S.O. 2121.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Labour Court, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 29-07-04.

[No. L-11012/10/98-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

Dated, this the 2nd day of July, 2004

Present

Shri C. N. Sasidharan
Industrial Tribunal

in

Industrial Dispute No. 13/99

BETWEEN

The Airport Director, Airports Authority of India,
International Airports Division, Trivandrum.

..... Management

(By Sri. K. L. Narasimhan, Advocate, Trivandrum)

AND

(1) Sri Rainold Christopher, Puthval Purayidom,
Vallakkadavu P.O., Trivandrum.

(2) Sri C. Chandrasekharan Nair, Puthuval Purayidom,
Near, Air Port, Trivandrum.

..... Workman

(By Smt. Pathiripally S. Krishnakumary, Advocate,
Trivandrum)

AWARD

The Government of India by Order No. L-11012/10/98/IR(M) dated 22-3-1999, have referred this industrial dispute for adjudication to this Tribunal.

The issue for adjudication is the following :

"Whether the action of the management of Airport Authority of India (IAD), Trivandrum, in not absorbing S/s. Rainold Christopher and C. Chandrasekharan Nair, Security Guards (erstwhile contract labourers) in their establishment and stopping them from work from 6-11-1997 is justified? If not, to what relief they are entitled to?"

2. The contentions of the two workmen involved in this reference are briefly as below :—

These two workmen are Ex-servicemen and were deployed by the contractor i.e. Ex-servicemen's Industrial Guards (P) Ltd. (contractor' for short) for working as security guards at various establishments including the management. They were among 15 security guards deployed by the said contractor at the Trivandrum Air Port and 12 among them have been in employment from December 1994. One of them was terminated due to over age. The Government of India issued a notification on 9-12-1976 under Sec. 12 of the Contract Labour Regulation and Abolition Act, 1970. The Supreme Court in SLP No. 12353/96 and other connected cases directed the union of India and Airports Authority to absorb and regularise contract labourers covered by the said notification. The management has accordingly addressed the contractor asking whether there is any objection in absorbing 15 contract workers and the contractor informed that it had no objection. The 15 employees were directed by the management to report for duty and they were issued daily permits and temporary passes. Monthly wages were also being paid. They were directed to submit their bio-data as well as affidavit which were also submitted. But the management regularised 12 workers except these two workmen and they were denied employment w.e.f. 6-11-1997 when they reported for duty on the ground that they have not completed one year work. They were also not paid their monthly wages. Termination of services of these workmen by the management is highly illegal, irregular and arbitrary. They have completed more than 220 days of continuous work under the management and where under the administrative control and supervision of management. There existed employer employee relationship between them and the management. The prayer is for reinstatement in service and regularisation with full backwages and other benefits.

3. The contentions of management are briefly as below :—

The contract with the said contractor commenced on 1-4-1997 for watch and ward of the Air Port. There is no

employer employee relationship between the claimants and the management and they are not workmen under the management. By communication dated 26-3-1997 the contractor was informed by the management that no further extension of contract will be granted for the work and the contractor was not asked about his no objection for alleged regularisation. These workmen were not on the rolls of the management on 6-12-1996, the date of the judgment of the Supreme Court mentioned by the workers. They were deployed by the contractor in April 1997 only. They are not entitled to claim regularisation/absorption and hence the management has no obligation to send any communication to them. The Supreme Court considered the case of workers who were working for a very long period as contract labourers and thereby directed to regularise them w.e.f. 6-12-1996. They were not permitted to mark attendance on the ground that their work was discontinued and not on the reason that they have not completed one year of service. There is no termination of service as alleged and these workmen fall outside the ambit of the judgment of the Supreme Court. The management has not denied employment to them and they are not eligible for any of the relief prayed for.

4. One of the workers, Sri. Chandrasekharan Nair, has given evidence as WW1. Exts. W1 to W10 have been marked on the side of the workmen. The Law manager of the management has filed proof affidavit and was cross examined as MW1. Exts. M1 to M4 have been marked on the side of the management.

5. The two workmen are claiming regularisation in service of the management contending that while working under the management from February 1996 the management has denied them employment. Admittedly these workmen were deployed by the contractor as security guards and it is not disputed that these workmen worked in that capacity in several other establishments as well from 1989 onwards. Now the question is whether there existed employer employee relationship between the management and these workmen. It is not disputed that they were not directly appointed by the management but only deployed by a contractor. Though it is contended that they had worked from February 1996, their own admission itself negatives that claim. Ext. M2 is copy of original petition No. 20272/97 filed by these workmen before the High Court of Kerala admittedly and in para. one of Ext., M2 it is specifically stated that they were deployed by the contractor for work as security guards under the management w.e.f. 1-4-1997. Further in Ext. W4 affidavit filed by the workman Sri. Raynold Crystephar before the management it is stated in col. 8 that he had worked as security guard with the management from 1997 March. These admissions of the workmen make it clear that their services under the management on deployment by the contractor started only from March and April 1997 respectively. Even according to them they were not permitted to work w.e.f. 6-11-1997 and there is no evidence to show that they have completed more

than 220 days as claimed by them. There is also no evidence to show that there existed employer employee relationship between them and the management. In these circumstances the contention that they had more than 220 days service under the management and therefore they are entitled to be regularised in service is devoid of merit.

6. The claim of the workmen is based on mainly on Ext. W1, a notification issued by the Government of India on 9-12-1976 and the judgment of the Supreme Court in *Air India Statutory Corporation Vs. United Labour Union* (1997(9)SCC 377). In that case the court considered the case of contract labourers working for a long time and accordingly directed to regularise them in service. Those workmen were on the rolls on 6-12-1996, the date of the judgment of the Supreme Court. The notification issued by the Government of India dated 9-12-1996 relied on by these workmen was considered by the Supreme Court while deciding that case. But these two workmen involved in this reference were deployed by their employer only in the month of April 1997 i.e. about four months after the date of judgment of the Supreme Court in the aforementioned decision in *Air India Statutory Corporation Case*. Therefore these two workmen are not entitled to claim regularisation on the strength of the said notification and this decision of the Supreme Court. Further the said notification has been subsequently quashed by the Constitution Bench of the Supreme Court in *Steel Authority of India Ltd. Vs. National Union Waterfront Workers* (2001 (7) SCC 1). In this decision the apex court has reversed the earlier judgment in *Air India Case* (supra). Therefore these workers are not entitled to get benefits on the basis of the aforementioned notification and the judgment of the Supreme Court in *Air India Case*.

7. In view of what is stated above, an award is passed holding that the action of the management of Air Port Authority of India (IAD) Trivandrum, in not absorbing S/s. Rainold Crystephar and C. Chandrasekharan Nair as Security Guards, is fully justified and hence these workers are not entitled to get any relief.

C. N. SASIDHARAN, Industrial Tribunal

Witness examined on the side of the Workman

WW1. Sri. C. Chandrasekharan Nair.

Witness examined on the side of the Management

MW1. Sri. A. Mohammed Rafeek.

Documents marked on the side of the Workmen

Ext W1. Photocopy of the notification issued by the Government of India dated 9-12-1976 under Sec. 10 of the Contract Labour Regulations and Abolition Act, 1970

Ext W2. Photocopy of letter issued by the management to the security guards dated 23-4-1997

- Ext.W3. Photocopy of letter addressed to the Senior Commercial Manager of Management from the Ex-servicemen Industrial Guards (P) Ltd. dated 5-4-1997
- Ext.W4. Photocopy of affidavit submitted to the management by Sri. Raynold Crystephar
- Ext.W5. Photocopy of pass issued to Sri. Chandrasekharan Nair from the management
- Ext.W6. Photocopy of identity card application form
- Ext.W7. Photocopy of representation addressed to the Asst. Labour Commissioner, Central, Trivandrum from the workers S/s. Raynold Crystephar and C. Chandrasekharan Nair dated 7-11-1997
- Ext.W8. Photocopy of letter addressed to Smt. Bhagavathi Amma from the management dated 23-10-1997
- Ext.W9. Photocopy of pass issued to Sri. Raynold Crystaphar
- Ext.W10. Photocopy of the judgment of the High Court of Kerala in OP. No. 2072/97.

Documents marked on the side of the Management

- Ext.M1. Affidavit submitted to the management by Sri C. Chandrasekharan Nair
- Ext.M2. Photocopy of original petition No. 2072/97 filed by Sri. Raynold Crystaphar and others before the High Court of Kerala
- Ext.M3. Affidavit filed by Sri Raynold Crystaphar before the management
- Ext.M4. Series (2 nos.) Copies of letters addressed to M/s. Ex-service men's industrial Guards (P) Ltd., Trivandrum from the management.

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2122.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूरेनियम कार्पो. ऑफ इण्डिया लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनवाद नं. 2 के पंचाट (संदर्भ संख्या 147/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-42012/15/97-आई. आर. (विविध)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 29th July, 2004

S.O. 2122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 147/98) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Uranium Corpn. of India Ltd., and their workman, which was received by the Central Government on 29-7-04.

[No. L-42012/15/97-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 DHANBAD

In the matter of a reference u/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

REFERENCE NO. 147 OF 1998.

PARTIES:

Employers in relation to the management of M/s. Uranium Corporation of India Ltd.

AND

Their Workmen

PRESENT:

Shri B. Biswas, Presiding Officer.

APPEARANCES:

For the Employers : Shri P. K. Rakshit,
Advocate.

For the Workman : Shri D. K. Verma,
Advocate.

State : Jharkhand. Industry : Mine.

Dated the 8th July, 2004

AWARD

By Order No. L-42012/15/97/IR(M) dated 28-5-1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal :

"Whether the action of the management of M/s. Uranium Corporation of India Ltd., Judugoda, in not initiating expeditious action in the matter of disciplinary proceedings even after lapse of 2 years after issuance of charge-sheet to Shri P. Mukhopadhyay, Asstt. Storekeeper is just, fair and reasonable? If not, to what relief the workman is entitled."

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the management issued a false and motivated chargesheet dated 5-7-94 denying all the allegations made therein. They alleged that the said chargesheet was issued with sole intention to victimise the concerned workman with some ulterior motive though the management knew very well that it was not possible to establish the charge brought against him and for that reason, they started killing time in completing so-called formalities within reasonable time. The management thereafter with bias view and to victimise him issued an illegal and motivated transfer order dated 18-7-94 wherein and whereby he was directed to report for his duty at Narwapahar Project. They also started deducting penal house rent on the allegation of not vacating accommodation provided to the concerned workman at Jadugoda though no house accommodation was provided at Narwapahar Project. They disclosed that there are many employees who were enjoying company's accommodation at Jadugoda though working at Narwapahar Project and similarly there are many employees who are enjoying house accommodation at Narwapahar Project but working at Jadugoda mine. Accordingly the order for deducting penal house rent on the ground of alleged transfer order that too during the pendency of the enquiry was not only illegal and arbitrary but also outcome of anti-labour policy of the management. With a view to dismiss the concerned workman they further stopped payment of annual increment to the concerned workman on the alleged ground of pendency of the chargesheet. Even they did not pay him project allowance since 18-8-94 without assigning any reason allegedly on the ground of pendency of the chargesheet. During this period they also illegally deducted a sum of Rs. 1870/- from the salary of the concerned workman which was paid to him as one additional increment at the time of grade rationalisation. Even they denied illegally to give designation though he was sanctioned next higher grade under S.L.A.-5. Accordingly he submitted representation to the management through sponsoring union to complete enquiry in view of charge-sheet issued to him but did not yield any result. Accordingly, the sponsoring union before raising the issue of non-completion of the enquiry and victimisation addressed a letter dated 14-10-96 to the Chairman-cum-Managing Director stating therein the entire fact, but inspite of sending the said letter as the management did not consider necessary to complete enquiry against the concerned workman they raised an industrial dispute before the A.L.C.(C) on 28-10-96. When the management came to know about raising dispute in this regard by the sponsoring union they hurriedly with a view to cover up their misdeed ordered for holding domestic enquiry dated 20-11-96. Hence this case.

The sponsoring union accordingly prayed to pass award to the effect that non-initiation of expeditious action by the management in the matter of disciplinary proceeding even after lapse of more than 2 year was unjust, unfair and unreasonable and violating to the principle of natural justice.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegation which the sponsoring union asserted in the written statement which was filed on behalf of the concerned workman.

They submitted that from the record it reveals that the concerned workman committed grave misconduct in misappropriating the materials by way of making false/wrong entry in the books, which was detected on physical checking of the stores. As a matter of fact the misconduct which the concerned workman committed deserved his dismissal from service, but the management took a lenient view and issued a chargesheet dated 5-7-94 to him. They further submitted that the management considered the reply given by the concerned workman, but as the reply given by him was not sufficient order was passed for constituting Enquiry Committee to hold domestic enquiry against the concerned workman in view of the charge brought against him. They alleged that the delay in taking up enquiry was not due to the fault of the management, but for the concerned workman. The concerned workman actually retained all the documents under his possession for long and for which the same were not available to the management. He also started manipulation and interpolated figures with a view to get his scape. They submitted that the concerned workman participated in the enquiry proceeding alongwith his co-worker fully and also signed all the papers of the enquiry as token of their acceptance that the enquiry was held. They further disclosed that the order of transfer is an outcome of service condition and it is in consonance with the terms of employment that he may be transferred by the employer from one unit to another for the interest of the management. Accordingly, the management did not commit any illegality in passing the order of transfer to the concerned workman from Jadugoda Project to Narwapahar Project vide transfer order dated 18-7-94. They disclosed further that penal rent was deducted from the concerned workman as he retained his quarter wrongfully and unauthorisedly while a quarter was allotted to him at his place of transfer at Narwapahar Project. Actually the concerned workman retained both the quarters one at Jadugoda Project and other at Narwapahar Project illegally and for which, according to rules, penal house rent was deducted from his salary and in doing so they did not commit any illegality. The management also denied all other allegations which the sponsoring union have brought against them and submitted that the claim of the concerned workman is liable to be rejected.

Points to be decided :

4. "Whether the action of the management of M/s. Uranium Corporation of India Ltd., Jadugoda, in not initiating expeditious action in the matter of disciplinary proceedings even after lapse of 2 years after issuance of charge-sheet to Shri P. Mukhopadhyay, Asstt. Storekeeper, is just, fair and reasonable? If not, to what relief the workman is entitled?"

Finding with reasons :

5. It transpires from the record that the concerned workman with a view to substantiate his case examined himself as WW-1. The management also, on the contrary, in support of their claim examined two witnesses as MW-1 and MW-2.

Here the point for consideration is whether the management caused unnecessary delay for a period of 2 years after issuance of charge-sheet to the concerned workman in initiating disciplinary proceeding against him. It is admitted fact that the management on the allegation of committing misconduct under Clause CSO-42(d) and CSO-42(cc) issued a chargesheet dated July 5, 1994 to the concerned workman. It is admitted fact that the concerned workman submitted his reply to the chargesheet on 8-7-94 denying all the charges brought against him. It is also admitted fact that the concerned workman was further directed by the management to produce original requisition slips on 14-7-94 which he submitted on 15-7-94. It is seen that immediately after issuance of chargesheet the concerned workman not only submitted his reply but also submitted required papers without causing further delay as per direction of the management. It is admitted fact that MW-1 i.e. Enquiry Officer took up domestic enquiry against the concerned workman in view of chargesheet issued to him vide order mentioned above from 22-1-97 and it was completed on 15-3-97. Accordingly, it is seen that the Enquiry Officer completed hearing of the domestic enquiry proceeding within a period of two months. Therefore, there is no scope to say that the Enquiry Officer caused delay in conducting domestic enquiry proceeding. However, the claim of the concerned workman is different. It is his contention that the management though issued chargesheet dated 5-7-94 and though he submitted reply to the chargesheet on 8-7-94 and also submitted material documents as per requisition of the management by 15-7-94, they made inordinate delay to appoint Enquiry Officer with a view to take up hearing of the domestic enquiry. It has been alleged by the concerned workman that the management without arranging for domestic enquiry at an early date transferred him to Narwapahar Project from Jadugoda Project not only but also stopped increment and also illegally deducted a sum of Rs. 1870/- from his salary which was paid to him as one additional increment at the time of grade rationalisation. The management also illegally denied designation though he was sanctioned next higher

grade under S.L.A.-5 w.e.f. 1-3-92. Even the management deducted penal rent from him for retaining his quarter at Jadugoda allotted by the management. He alleged that all these actions were taken with a view to victimise him. In support of this claim the concerned workman relied on officer orders marked as Ext. W-1 and W-2. I have carefully considered the order passed by the management dated 23-7-96 (Ext. W-1) where from it transpires that the additional increment of Rs. 70/- which was effected from 1-6-94 as per rationalisation scheme and arrears of amount given to that effect was withdrawn as the concerned workman was not eligible due to non-clearance of his disciplinary procedure vide charge-sheet issued No. UCIL/PF/5203 (Adm)/Mines/94 dated 5-7-1994. Vide order dated 4-4-95 it further transpires that the management withheld annual increment of the concerned workman due to non-clearance of Charge-sheet which was issued to him on 5-7-94. Therefore, it is clear that the concerned workman was deprived of getting his wages as per rationalisation scheme and annual increment which he was legally entitled to get only for the cause of delay in holding domestic enquiry for a period of 2 years. MW-2 during his evidence assigned two reasons for causing delay in initiation of domestic enquiry against the concerned workman. The first reason was that due to non-cooperation of the concerned workman in verification of the stock and the second reason was for sudden death of Controller of Stores, Ramesh Chandra. This witness disclosed that the Enquiry Committee was constituted on 20-12-96 under his order and the domestic enquiry against the concerned workman started on 22-1-97 and completed on 16-3-97. Therefore, onus shifts on the management to establish that the concerned workman initially did not co-operate the management in verification of the stock. In course of hearing the management have failed to produce single scrap of paper to show that for non-cooperation of the concerned workman the verification of stock could not be concluded at an early date. From the evidence of both sides it transpires that the concerned workman by furnishing the original receipt as per direction of the management without causing any delay co-operated the management in the matter of verification of stock in the stores. Therefore, the first ground assigned by MW-1 in course of evidence in the matter of causing delay in setting up Enquiry Committee finds no basis at all. It is the contention of the management that the Controller of Stores, Ramesh Chandra died all of a sudden and for verification of stock was delayed. No evidence is forthcoming actually on which date Ramesh Chandra died and whether he was directed to verify the stock in the store by issuing any specific order and how far the said inspection work was completed till the death of his death. In this regard the management also have failed to enlighten the Tribunal to establish that there was no intentional delay caused on their part in constituting Enquiry Committee for holding domestic enquiry against the concerned workman as a result of which it transpires

that the concerned workman sustained monetary loss and he was deprived of getting increment as per rationalisation scheme, and annual increment. It is seen that the concerned workman submitted representation to the management after issuance of charge-sheet to constitute Enquiry Committee and to arrange for hearing of domestic enquiry proceeding at an early date. No cogent paper is forthcoming relying on which there is scope to draw conclusion that the concerned workman was duly informed about the reason for causing delay in constituting Enquiry Committee against him and also to proceed with the hearing of the domestic enquiry proceeding. It is clear from the evidence on record that the management constituted domestic enquiry committee and also arranged for holding domestic enquiry against the concerned workman after the concerned workman through his sponsoring union raised an industrial dispute before the A.L.C. (C) on 28-10-96. It is seen that the industrial dispute was taken up for hearing by the A.L.C. (C) on 29-10-96 and after a lapse of about two months the management constituted Enquiry Committee. Therefore, it is clear that the management did not consider necessary to constitute Enquiry Committee for holding domestic enquiry against the concerned workman till raising of the industrial dispute by the concerned workman. It is the allegation of the concerned workman that the management taking vindictive attitude transferred him to Narwapahar Project from Jadugoda after issuance of charge-sheet not only but also deducted penal rent for retaining his quarter at Jadugoda. On the contrary, submission of the management is that transfer of the worker is done on the basis of C.S.O. maintained by the management and in transferring the concerned workman from Jadugoda Project to Narwapahar Project area they did not commit any illegality. It is further contention of the management that at Narwapahar Project quarter was allotted to the concerned workman and he took its possession duly. They submitted that a workman cannot retain two quarters in his possession and as the concerned workman did not vacate his quarter at Jadugoda they rightly imposed penal rent. It is admitted fact that the concerned workman was allotted with a quarter at Narwapahar Project but it is the submission of the concerned workman that he did not take possession of the same. The concerned workman in course of hearing has failed to produce any such paper to show that he informed the management in writing to the effect that he did not take possession of the newly allotted quarter at Narwapahar Project as he is in possession of the quarter at Jadugoda. Until and unless this fact is established by the concerned workman, I find no scope to say that the management committed any illegality in deducting penal rent from him for retaining his quarter at Jadugoda. I further hold that transfer of a worker is in the absolute domain of the management as per S.O. applicable to workers maintained by them. A worker cannot claim that the management is debarred from transferring him

from one place to another for the interest of the service of the management. Therefore, until and unless it is established that the management with vindictive attitude issued order or transfer to the concerned workman there is no scope to draw any conclusion that he was illegally transferred by the management. I find no hesitation to say that the concerned workman has failed to establish this allegation against the management.

6. The learned Advocate for the management in referring decision reported in 2003 (97) F.L.R. 696 submitted that delay for constituting Enquiry Committee to hold domestic enquiry cannot *ipso facto* vitiate the enquiry proceeding. In the instant case between Nisar Ahmed and State of Rajasthan their Lordship of Rajasthan High Court observed that question of delay raised first time at the representation stage does not invite quashing the enquiry proceeding on that ground. In the instant case the charge-sheet was issued after 15 years of the commission of misconduct and thereafter enquiry started and the concerned workman was found guilty to the charges brought against him. Thereafter the concerned raised the instant dispute with a prayer for quashing the report of the enquiry proceeding submitted by the Enquiry Officer. However, their Lordship dismissed the writ petition taking into consideration that this court is not sitting as an appellate court there was no good reason to interfere with the order of penalty and in finding given by the Enquiry Officer. However, option was given to the petitioner to review before the reviewing authority. The instant case is quite different from the subject-matter of the case referred to above. The concerned workman did not challenge the decision of the Enquiry Officer which he arrived to after concluding enquiry proceeding. It is also not the case of the concerned workman that he challenged the decision of the enquiry proceeding. What he agitated here is that the management inspite of issuance of charge-sheet and also inspite of receiving reply to the chargesheet and other particulars as per their requisition caused inordinate delay for more than one and half years without assigning any cogent reason. Even the management did not consider necessary to give any importance to the written representation of the concerned workman for taking up domestic enquiry proceeding at an early date as he sustained penal loss in the matter of his increment and other monetary benefits. The management did not consider necessary even to give any reply to the representation submitted by the concerned workman. They only considered to constitute enquiry committee when the concerned workman raised industrial dispute before the A.L.C. (C) expressing his grievance for non-constituting enquiry committee against him with a view to conduct domestic enquiry inspite of submission of representation on his part to the management. I have already discussed in details the attitude which the management exposed in not constituting enquiry

committee against the concerned workman within reasonable period particularly when the concerned workman was eager to face enquiry proceeding for the misconduct alleged to have been committed by him. The reason assigned by the management. I have already discussed above is far from satisfactory to accept the same. It is seen that when the concerned workman was very much eager to face the domestic enquiry for the misconduct alleged to have been committed by him it was the management who did not give any importance to his appeal and started killing time without assigning cogent reason to the concerned workman. The reason assigned by MW-2 for causing delay in course of his evidence was not at all satisfactory and I have already explained the facts above. It is expected that when a charge-sheet is issued to any workman its enquiry should be completed as quick as possible to make everything transparent. Here in the instant case as the management have failed to satisfy the reason of delay with cogent document I hold that they caused delay in constituting enquiry committee for holding domestic enquiry against the concerned workman is not fair, proper and in accordance with the principle of natural justice.

7. In the result, the following award is rendered—

The action of the management of M/s. Uranium Corporation of India Ltd., Jadugoda, in not initiating expeditious action in the matter of disciplinary proceedings even after lapse of two years after issuance of charge-sheet to Shri P. Mukhopadhyay, Asstt. Storekeeper is not just, fair and reasonable.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फार्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पंचाट (संदर्भ संख्या 186/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-7-2004 को प्राप्त हुआ था।

[सं० एल-14012/23/96-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 30th July, 2004

S.O. 2123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 186/97) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Military Farm and their workman, which was received by the Central Government on 30-07-2004.

[No. L-14012/23/96-IR (DU)].

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. ID 186/97

Received on 1-11-1997

Decided on : 8-7-2004

General Secretary, Ambala Area Civilian Employees
Union, 223/3, Bravo Power House, Ambala Cantt.

Applicant

VERSUS

The Officer Incharge, Military Farm, Ambala Cantt.

Respondent

APPEARANCES:

For the Workman : Dhani Ram

For the Management : K.K. Thakur

AWARD

Central Govt. in exercising, the powers U/s 10 of the I.D. Act 1947, vide No. L-14012/23/96-IR (DU) dated 22nd of October, 1997, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Officer, Incharge, (MI) Military Farm Ambala Cantt. in denying the payment of salary to M.T. Driver and instead of paying salary of Farm Hand to Shri Ram Raj Farm hand and qualified MT driver for the period when he is employed is just & fair? If not, to what relief he is entitled to ?”

2. Today the case was fixed for filing of affidavit by the workman. The authorised representative of the workman made the statement that he was instructed by his client to make the statement that the petitioner is in service of the respondent. therefore, he does not want to press for his claim made out in the present reference and wants to withdraw from prosecuting the reference. In view of the statement of the representative of the workman, the present reference is answered as withdrawn by the workman. Government be informed accordingly.

Chandigarh.

8-7-2004.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

AWARD

का.आ. 2124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आंध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 59/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-12012/26/2004-आई.आर. (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 59/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 29-7-2004.

[No. L-12012/26/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 30th day of June, 2004

INDUSTRIAL DISPUTE NO. 59/2004**BETWEEN:**

Sri Ch. Uma Maheswara Rao,
C/o 20/103/1, Near Water Tank,
Durga Nagar, H.B. Colony,
Visakhapatnam (A.P.)

..... Petitioner

AND

The Asstt. General Manager,
Andhra Bank,
Zonal Office,
Seethammadhara,
Visakhapatnam, -530 013

..... Respondent

APPEARANCES:

For the Petitioner : Nil

For the Respondent : Nil

The Government of India, Ministry of Labour by its Order No. L12012/26/2004-IR (B-II) dated 31-5-2004 referred the following dispute under section 10 (1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Bank and their workman. The reference is,

"Whether it is a fact that Shri Ch. Uma Maheswara Rao was engaged as a driver during period from 1-8-1988 to 30-9-2003? If so, whether the action of the Management of Zonal Office, Andhra Bank, Visakhapatnam in terminating the services of Shri Ch. Uma Maheswara Rao, Ex-Personal Driver with effect from 1-10-2003 is legal and justified? If not, what relief the concerned workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 59/2004 and notices were issued to the parties.

2. Petitioner is present on this 30th day of June, 2004 for the first time and filed a Memo stating that he has been given driver's job from 1-5-2004. Hence, the reference may be closed.

Accordingly a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 30th day of June, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidenceWitnesses examined for the
Petitioner :Witnesses examined for
the Respondent :

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी नं. 98/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-12025/4/2004-आई.आर. (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2125.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. LCID No. 98/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 29-7-2004.

[No. L-12025/4/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 19th day of July, 2004

INDUSTRIAL DISPUTE L.C.I.D. No. 98/2002

BETWEEN:

Smt. C. Sugunamma,
W/o C. Eshwar,
C/o G. Krishna Rao,
H. No. 18-3-213, Kandikal,
Boiguda, Near Chatrinaka,
Hyderabad-500 083

....Petitioner

AND

1. The Chief Regional Manager,
Indian Overseas Bank, Regional Office,
3rd Floor, Suryalok Complex, 5-9-299,
Gunfoundry, Hyderabad-500 001.
2. The Senior Branch Manager,
Indian Overseas Bank,
Adarshnagar Branch, Near Liberty X Roads,
Hyderabad.Respondents

APPEARANCES:

For the Petitioner : Sri M. Nageswara Rao, Advocate
For the Respondent : M/s A. Krishnam Raju, G. Dinesh
Kumar, G.V.N. Babu, N.
Premananda Rao & T.P. Das,
Advocates

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of

Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief averments as averred in the claim petition are : That the Petitioner has joined on 17-2-97 in Indian Overseas Bank Regional Office, 3rd floor, Suryalok Complex, H.No. 5-9-299, Gunfoundry, Hyderabad. After working as temporary part-time Sweeper in various branches of the IOB in twin cities of Hyderabad and Secunderabad, the Petitioner was posted as temporary part time sweeper in IOB Adarshnagar branch on 14-7-98 and since then continuously working with honesty, sincerity and without any remarks. Her duties consists of sweeping, dusting and cleaning the bank premises measuring approximately 5,184 sq ft., bringing water and getting Xerox copies of the Bank's documents etc. The fact that the Petitioner has been continuously working for more than three years in IOB, Adarshnagar branch clearly shows that there is a clear vacancy of part time sweeper post in the branch. On 30th January, 2002 the Petitioner was orally informed by the Sr. Branch Manager of IOB Adarshnagar branch that she should not come to the branch from next day onwards i.e. 31-1-2002 as her services were terminated by the regional office. The Petitioner was appointed as temporary part time sweeper vide regional office letter No. RO PAD 178.348.97. The Petitioner was sponsored to that post by the local employment exchange vide their letter No. 1196/0191/0001 12 to 7 dated 12-12-96. After putting nearly five years continous service she was terminated without showing any reasons. The Petitioner has passed V class examinations and belongs to Backward Class—Group A (Besta) and have continously worked for more than 240 days without any remarks and she, therefore, is entitled for regularization as part time sweeper. The Petitioner was paid wages starting from Rs. 6/- per day to Rs. 40/- per day which is the last salary drawn by her instead of paying her pro-rata wages. Further she has worked for more than four hours per day throughout her service. That she is 40 years of age and has to look after aged husband and the unmarried daughter. That her name was removed from employment exchange as she has got gainful employment in the respondent bank. There is no scope for her to get alternative employment as she is age barred. She gave several representations but the bank did not respond. She got issued legal notice on 2-3-2002 which was acknowledged by the Respondent on 7-3-2002 asking for reinstatement into service. It is submitted that the Respondent have not replied to the above legal notice and not denied the statement as made out in the legal notice. In the light of the above facts and circumstances there is no other alternative except to approach this Court. Hence, the oral termination may be set aside and the bank may be ordered to restore the Petitioner and put the Petitioner in the pro-rata time scale of Rs. 2750-5000 as per the seventh Bi-partite Settlement entered between Indian Banks

Association and workmen's Union and to pass such other order/orders as this Court may deem fit and proper.

2A. In the counter it is submitted by the Respondent that the Petitioner's case is not maintainable under law. It is not correct to state that the petitioner was appointed as part time sweeper vide letter dated 6-2-97. That she never worked for more than 240 days in the bank continuously. It is denied that there is a vacancy of part time sweeper at their Adarshnagar branch as claimed by the Petitioner as the sweeping, cleaning and maintenance of the premises is looked after by the society of Paiga Palaza in which the bank is located from its inception.

3. The Petitioner was selected for temporary part time sweepers panel 17-2-97 created for the purpose of temporary engagement at branches in the leave vacancies by the permanent part time sweepers on daily wage basis. Here services were utilized in different branches on different dates for a total period of 44 days only and thereafter her services were terminated along with others. A communication to this effect was also sent to the Regional Employment Exchange also. It is denied that the petitioner was posted as temporary part time sweeper at their Adarshnagar branch on 14-7-98 on regular basis. As no vacancy of sweeper existing at Adarshnagar branch, the question of posting her does not arise. It is understood that she was engaged by the branch occasionally to attend some sundry jobs like fetching the water, cleaning the counters bringing Xerox copies etc., for which she was paid remuneration on daily basis. It is incorrect to say that she was cleaning the branch premises measuring 5184 Sqft. The carpet area of the branch is only 2880 Sqft. It is also not a fact that the Petitioner had worked continuously for a period of 3 years as part time sweeper. There is no appointment order or any communication from their office or the branch to this effect. The alleged letter bearing reference No. RO/PAD/178/348/97 dated 6-2-97 issued to her is only regarding her empanelment in temporary part time sweeper and for engaging her in any leave vacancy as and when it occurs, on daily wages basis. In this connection, it is submitted that whenever there is a need for keeping a panel of temporary employees for engagement in leave vacancy the bank calls for the candidates from the respective employment exchanges and after conducting interviews, selection will be made based on merit and suitability and the selected candidates from the panel may be appointed in the vacancy by a written order. She has worked for 45 days in 1996-1997 and was paid the pro-rata wages. Of course, again there is a paragraph challenging the jurisdiction of this Court praying ultimately to dismiss the case.

4. The Petitioner examined herself and deposed that she was doing sweeping, dusting. That she was working with R2. She does sweeping and dusting for furniture, bringing waters, coffee and tiffins etc. and also getting

bank documents Xeroxed. Her name was registered with the employment exchange in 1973. On 17-2-97 she was interviewed by R1 office and she joined on the same day. Afterwards she was sent to the DGP office Branch, Lakdikapul and worked there, for 7 months. Then she was sent to Mallapuram Extension counter and worked for one month there. The said branch is near Cherlapally. From there she was sent to R. P. Road branch and she joined with R1 on 14th July, 1998. She worked till 30-1-2002. Then she was asked orally not to come from 31-1-2002. Though she worked continuously from 17-2-97 to 30-1-2002. Ex. W1 is the notice calling upon me to come on 17-2-97 which is dated 6-2-97. Ex. W2 is the bundle of Xerox copies of statement of having made the number of copies in Xerox machine. Ex. W3 also are the statements similar in nature showing that somebody else by name Durga is doing my job in her place. No enquiry was conducted no notice or pay in lieu thereof was given. She got issued a notice, office copy is Ex. W4. Postal acknowledgements are Ex. W5 and W6. Hence, she approached this Court. Along with her Ratanlal and Hyder Ali used to come with her to get the documents xeroxed. Sometimes, Harishankar and Srinivasa Rao used to come along with her. Srinivasa Rao is a clerk. The signatures on Ex. W2 majority are of Ratanlal. Even her signatures are there.

5. In the cross-examination she deposed that she has not made any application to the bank for appointment but she registered her name in employment exchange and they sponsored. Ex. W1 shows that the bank engaged her for a period of 44 days as a temporary part time sweeper. After Ex. W1 she was not issued any letter continuing her service beyond 44 days. But her services were availed by the bank. She has no proof evidencing that the bank continued her services after expiry of 44 days. She did not work anywhere before working in the bank. The Bank Manager has asked her to sign on Ex. W2 and W3. The officer of the bank asked her to take the Xerox copy of the register for the purpose of filing a case. She cannot tell the name of the officer who advised her as such. There are three sub-staff in the bank. She used to bring drinking water for the use of staff. That she does not know whether bank provided Mineral Water for drinking purpose but when she was working she used to bring water. She does not know whether one girl by name Durga has been working as part time sweeper in her place. In the re-examination she deposed that she has filed Ex. W2 and W3 to show that she has worked for more than 240 days in the bank.

6. Sri A Ramesh, Watchman at Paiga Plaza deposed as WW2. He deposed that he has been working as watchman at Paiga Plaza from 30 years. That WW1 worked for more than 3 years in the bank. She used to work there till 4 or 4.30 PM. She used to sweep and get tiffin etc., required for the staff and also she used to get the copies of the documents Xeroxed. All the 4 persons mentioned by WW1 are working in the bank. Some new persons were

appointed in her place. In the cross-examination he deposed that there are more than 200 offices in Paiga Plaza complex. The entire complex including offices in that building are cleaned by the persons employed by the society of the building. The branch never had any sweeper of their own to clean the premises since the society of the building has been attending to this job. That he worked as a watchman on shift basis. That his duty is at the entrance of the building as a watchman. The bank employees display identity cards. That WW1 had no such card. That while WW1 was working the society employees did not clean the premises of the bank. Before WW1 there was no sweeper employed by the bank. But after WW1 the bank does not employ any sweeper. In the re-examination he deposed that on 12-11-2002 when he was coming to the Court to give evidence some bank people threatened him not to go to court. In the further cross-examination he deposed that he did not report to the Court about the said incident. That he did not lodge any complaint to the building society. He denied that he is deposing falsely.

7. She also examined Sri A. Sangameshwar Rao, Real Estate Businessman as WW3. He deposed that he knows the Petitioner since 1998. She was working in Adarshnagar Branch of Respondent bank. As he used to sit there, he knows her. She is not to be seen there since one year. She used to sweep and wash and used to bring water from near by masque. Sometimes he used to ask her to get Telugu paper from the bank and she used to get Telugu paper from bank. He used to go by 9.30 and he used to find her always before he reaches there. In the cross-examination he deposed that he is dealing real estate business. He used to sit there for business from 1976 till date. He do not have any documentary evidence to show that he was sitting there. That he works as a commission agent. He denied that he is deposing falsely.

8. She also examined one Sri M. A. Rahim, aged 73 years, Job typist as WW4 who deposed that he has an account in the Indian Overseas Bank, A/c No. 7185. That he has a typing institute behind Indian Overseas Bank at Pattargatti branch. She worked there in June, 1998. That he was working in Police Commissioner's office as a UDC and retired in 1991 on voluntary basis. He is still working there as job typist between 2 pm to 6 pm. The Petitioner used to work as sweeper bringing water tea and snacks to staff. In the cross-examination he deposed that he worked for one month.

9. MW1 Sri V. V. L. N. Sarma deposed that Ex. W1 was issued by his office while empaneling Petitioner as temporary part time sweeper. According to record show has worked only for 43 days at DGP extension counter and one day at Adarshnagar branch. That she did not work for 240 days but she has worked only for 44 days. It is not true that she has taken Xerox copies even on 30-1-2002. It is correct that Ratanlal is permanent sub-staff of the

Adarshnagar branch. He cannot say whether Ex. W2 bears the signature of Sri Ratanlal and Sri Kanaka Rao and of Sugunamma. There is a Xerox machine at Regional office. He cannot say whether one is there at Adarshnagar branch. He does not know whether any cases of sweepers working under Court orders.

10. MW2, Smt. A. Yeshwanti deposed that prior to her posting at Adarshnagar branch of Respondent bank from June, 1997 to June, 2002. No post is identified at Adarshnagar branch for employing part time or full time sweeper. The society relating to Paiga Plaza is undertaking cleaning and sweeping of the internal premises of offices located in that building. As such there is no requirement for appointing any person as sweeper. That they are paying maintenance charges to the society including for the services rendered by them for sweeping and cleaning of the bank either on permanent or on temporary basis. She knows Sugunamma who never worked on temporary basis in Adarshnagar Branch when she was the Branch Manager. That the Petitioner approached her in the year 1999 to provide some work and at that time there was acute shortage of water in the premises and she asked the Petitioner to bring drinking water and she used to bring the same. The job was given occasionally. She never entrusted the work of getting bank documents, Xerox from outside to the Petitioner. The Petitioner never worked as a sweeper in the Adarshnagar Branch when she was Branch Manager and she did not worked continuously 14-7-98 till 30-1-2002. In the cross-examination, she deposed that she was the Branch Manager, when this case is filed. That she has not signed the vakalath and the counter in this case. She was present in the Court when WW3 and WW4 were examined. She knows the Petitioner as she used to come now and then requesting some work. She was told that she had worked for a day or two in the branch during 1997. She worked for about three months intermittently. She was attending only to bringing water. She was not doing sweeping or doing Xerox copies of bank documents. She used to come at about 10 O' clock and generally used to go away after two hours after fetching water. Xerox copies were made from outside. In Paiga Plaza they have a Xerox shop. One Ratanlal and Kanaka Rao are working as sub-staff in the branch. Kanaka Rao is transferred recently. Apparently the signatures in the Xerox copy of Ex. W2 of Ratanlal and Kanaka Rao. She does not know whether there are signatures of Sugunamma also in Ex. W2 in January, 2002. That she used to pay on miscellaneous expenditure voucher. Ex. W10 is a blank debit voucher of their bank. They have not paid pro-rata wages. The plinth area is 3000 sqft. That she knows WW2 who is working as watchman. It is not true to suggest that the Petitioner was entitled for wages as per bi-partite settlement. It is correct that their Bank has made Rs. 416 crores as profit.

11. It is argued by the Learned Counsel for the Petitioner that she was first appointed as temporary part

time sweeper on 17-2-97 after appearing for an interview. The Petitioner was also sponsored by local employment exchange. She studied upto 5th class and was 37 years old at the time of appointment. She is having aged husband and three unmarried daughters.

12. She worked for seven months as temporary part time sweeper in DGP office branch, Lakdikapul. Then she was sent to Mallapur extension counter where she worked for one month. Next she was posted at R. P. Road branch and worked for 8 months. Subsequently she was transferred to Pattarghatti branch and there she worked for one month. Finally she worked at Adarshnagar branch from 14-7-98 upto 30-1-2002 without any break. That WW2 Sri A. Ramesh, Watchman at Paiga plaza deposed that Petitioner used to work there at paiga Plaza ground floor. That he has seen her. WW3 Sri A. Sangameshwara Rao who says that he used to sit there and she used to ask him to get up for sweeping and washing. That she used to get water from the nearby Mosque. WW4 Sri M.A. Rahim, a job typist deposed that he retired from Police Commissioner's office as UDC in 1991 on voluntary basis. That the petitioner used to work as sweeper, bringing tea and snacks to staff. In the cross examination he deposed that he knows her from June, 1998. She worked for one month. WW1's main contention was that she worked from 14-7-98 till 30-1-2002 at Adarshnagar branch. Ex. W2 is a bunch showing the number of Xerox copies made in the Xerox machine. Ex. W3 also is the same which shows that someone by name Durga is working in her place. He therefore submits that it is clear that the petitioner has worked for more than 240 days and as she has been dismissed without any notice. Therefore she is entitled for reinstatement with full back wages.

13. He relied on service law reporter 1990(6)SLR page 55 wherein it was held, "Ad hoc or stop-gap arrangement continued for long,— once the appointment continued for long, the services had to be regularized of the incumbent possesses the requisite qualifications prescribed in the rules—Such an approach alone would be consistent with the constitutional philosophy". He also relied on 1992 AIR Supreme Court page 2130 wherein their Lordship held, "The main concern of the Court in such matters is to ensure the Rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent with requirements of Articles 14 and 16. It also means that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. As is often said, the State must be a model employer." It is for this reason, it is held that the person should not be kept in a temporary or adhoc status for long. Where a temporary or ad hoc appointment is continued for long the Court presumes that there is need and warrant for a regular post and accordingly directs regularization." So he submits that she is entitled not only for reinstatement but reinstatement with back wages and also regularization.

14. It is argued by the Learned Counsel for the Respondent that MW1 Sri V.V.L.N. Sarma admitted that Ex. W1 was issued by his office by impaneling the Petitioner's name as temporary part time sweeper. As the name was sponsored by employment exchange. She worked as temporary part time sweeper for 43 days at DGM extension counter and one day at Adarshnagar branch. That there is a society which takes cares of the maintenance, including sweeping and cleaning in the Paiga Plaza premises. He further submits that MW2 Smt. Yashwanti who was the Branch Manager at that time has stated that she approached her for work on temporary basis in Adarshnagar branch in the year 1999 and as there was acute shortage of drinking water, she used to bring the same. The job was given occasionally, only approximately for three months. That they used to pay her Rs. 20 to Rs. 30/-. He therefore submits that the Petitioner is not entitled for reinstatement.

15. It may be seen that no doubt certain witnesses have come and deposed that she has worked there at Adarshnagar branch and Ex. W2 shows that she used to get the Xerox copies done and Ratanlal and Hyder Ali also used to get the Xerox done. But there are certain sheets of Xerox copies done, showing that Xerox was done from October, 2000 to March, 2002. How did she get hold of these documents unless she has something to do with the bank. More over she deposed that she worked for more than three years. WW3 also deposed that he knows her since 1998. Since she has worked in the bank. So it can be safely concluded, and the contention that she worked for one month at Patterghatti branch is forfeited by the evidence of WW4 an old man of 73 years, who has retired as UDC from Police Commissioner's office. So it cannot be said that she did not work. No doubt, due to restrictions placed on the branch managers, she might not have been working the entire day but some work was extracted from her and according to Ex. W1 she was also empanelled as for back as on 6-2-1997 for the entire city branches. So it will not be out of place to consider her for being posted as a sweeper in any of the city branches. It is concluded that she has worked for more than 240 days. Therefore the bank is directed to provide her temporary part time sweeper's job in any of the city branches within 30 days from the publication of this Award failing which she will be entitled for daily wages as per the rates prevailing now. She is not entitled for any back wages or continuity of service or any other relief sought for.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of July, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Smt C. Sugunamma	WM1 : Sri V.V.L.N. Sarma
WW2 : Sri A. Ramesh	MW2 : Smt A. Yashwanti
MW3 : Sri A. Sangameshwar Rao	
WW4 : Sri M.A. Rahim	

Documents marked for the Petitioner

- Ex. W1: Notice calling the Petitioner dt. 6-2-97
- Ex. W2: Copies of statements (bundle) made in Xerox machine
- Ex. W3: Copies of statements (bundle) made in Xerox machine—showing as the work done by Durga
- Ex. W4: Copy of legal notice to the Respondent dt. 2-3-2002
- Ex. W5: Postal acknowledgement
- Ex. W6: Postal acknowledgement
- Ex. W7: VII Bipartite settlement
- Ex. W8: Employment registration card
- Ex. W9: Copy of transfer certificate

Documents marked for the Respondent

NIL

नई दिल्ली, 30 जुलाई, 2004

का.अ. 2126.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंडीगढ़ के पंचाट (संदर्भ संख्या 139/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-7-2004 को प्राप्त हुआ था।

[सं. एल.-12012/147/93-आई.आर. (बी-II)]

सी० गंगाधरूण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2126.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 139/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their

workman, which was received by the Central Government on 30-7-2004.

[No. L-12012/147/93-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH****PRESENT: SHRI KULDIP SINGH PRESIDING OFFICER**

Case No. I.D. 139 OF 1993

Received on : 25-11-1993

Decided on : 29-6-2004

Vinod Gupta C/o Shri H. C. Arora, 2299, Sector 44-C, ChandigarhApplicant

Versus

1. Chairman & Managing Director, Punjab National Bank, Bhikaji Kama Palace, New Delhi. Respondents

APPEARANCES:

For the Workman : Shri H.C. Arora

For the Management : Shri Harjit Singh

AWARD

Vide Notification No. L-12012/147/93/IR(B.II) dated 24th of November 1999, the Central Govt. has referred the following matter for adjudication to this Tribunal-cum-Labour Court :

"Whether the action of the erstwhile New Bank of India, (now merged with Punjab National Bank), Rohtak in treating Sri Vinod Gupta as having voluntarily abandoned his services with the bank and terminating his services w.e.f. 21-3-1992 is justified? If not, what relief, is Sri Gupta entitled to?"

1. Notice of the notification was given to the parties and parties appeared on 22-2-1994 on which date the petitioner filed claim petition. Respondent filed written statement, to claim statement, on 12-5-1994. The petitioner filed replication and affidavit, to the written statement of the respondent, on 26-9-1994 on which date the petitioner was directed to produce his evidence.

2. The statement of the petitioner was recorded on 14-12-1994 on which date the petitioner closed his evidence and the respondent filed affidavit on behalf of the management. Record of the file shows that respondent filed the affidavit of Shri A.K. Tuli earlier and then, they, with the permission of the Court, filed affidavit of another

witness R.S. Khorana to whom the petitioner cross-examined on 3-5-2001. The petitioner also cross-examined Mr. A.K. Tuli on 3-11-1998.

3. As per claim petition, the claim of the petitioner is that respondent vide their notice 21-2-1992 terminated his services against which the petitioner raised the industrial dispute on the ground that termination of the petitioner was bad in law since clause 14 of the Bipartite Settlement, invoked by the respondent, was not applicable to the case of the petitioner rather his termination was retrenchment as denied under the Industrial Disputes Act 1947 (hereinafter referred to as the Act) and doing of that was in violation of Section 25F of the Act, hence termination of the petitioner was *void-abinitio* since the respondent bank had not followed the requirement of the said Section before termination his services. It is also the case of the petitioner that the termination could not be ordered without following the principle of natural justice as is held by the Hon'ble Supreme Court of India in case reported as D.K. Yadav Vs. JMA Industries Ltd., 1993, domestic Enquiries Law Journal 121.

4. The petitioner further claims that absence without leave or overstay after the expiry of the sanctioned leave without sufficient ground is a minor misconduct under clause 19.7(a) of the Bipartite Settlement dated 19-10-1966, as amended up to date, and no termination can be legally effected without conducting departmental enquiry. Moreover the termination on that ground, which is a minor misconduct, could be grossly disproportionate to the misconduct and thus an arbitrary and unjustified act. That the termination of the petitioner otherwise also is in violation of mandatory provisions of Para 522 sub para 1 of the Sastry Award which contains that cases which did not involve disciplinary action for misconduct and subject to clause (6) the employment of a permanent employee could not be terminated without giving him three month's notice or salary in lieu thereof and in case of probationer without giving him one month's notice or salary in lieu thereof. In the present case nothing that has been done, therefore, the termination of the petitioner is bad in law.

5. The petitioner has further claimed that his terminating from service was illegal invalid and *void-abinitio* and therefore, he is entitled to be reinstated in service with benefits of continuity in service and all consequential relief which he would have been entitled to but for his termination from service.

6. The respondents have opposed the claim of the petitioner by raising two preliminary objections and the reply to the claim petition parawise. It is claimed that the petitioner can not appear through H.C. Arora, who is a practitioner lawyer, in violation of Section 36 of the Act. That services of the employees of the respondent bank are governed by Award/settlements and in view of that the petition is not maintainable.

7. On facts it is stated by the respondent that as per the notice of the Govt. of India dated 4-9-93, New Bank of India was amalgamated with Punjab National Bank and all the liabilities and assets thereof were transferred to the Punjab National Bank. That Shri Vinod Gupta, the petitioner had joined the service with the New Bank of India on 24-10-1972 in clerical cadre and was posted in the branch office Rohtak in 1989 as special assistant. That Shri Gupta absented from duty w.e.f. 1-2-1989 without any information and justification. Bank waited for him and ultimately sent a notice to him on 30-10-90, followed by another notice dated 10-12-1990, but despite that Shri Gupta did not resume the duties nor responded to the notices, as such under the Bipartite Settlement he was given final notice on 11-1-1991 advising him to resume his duty within 30 days failing which it will be presumed that he has no intentions to join the duty and wants to retire voluntarily. In that case the bank shall presume that Shri Gupta, to have retired voluntarily. It is further claimed that the notice was issued under registered cover A.D. followed by another notice dated 5-2-1991 wherein 30 days more time was given to the petitioner to join duty. However, Shri Gupta did not resume his duty. Shri Gupta resumed his duties on 9-2-1991 but again absented from 11-2-1991, without giving any information or justification for his absence. He was again advised by the Regional Manager vide his letter dated 23-3-1991, which was sent through registered A.D. by which Shri Gupta was directed to resume duty within 30 days. He was also well informed that in case he failed to report for duty within stipulated period of 30 days, the bank shall take it confirmed that he does not intends to join his duties and will treat Shri Gupta as having retired voluntarily on the expiry of period of the notice. The notice period expired but Mr. Gupta did not resume his duty and bank issued 2nd notice on 21-2-1992 which too was sent under registered cover besides under postal certificate, giving him further period of 30 days to resume his duty in terms of Bipartite Settlement. But Mr. Gupta did not join his duties and ultimately the respondent, through their branch manager, vide its letter dated 31-5-1992 informed Mr. Gupta that his name has been struck off from the bank roll; that action against the petitioner was taken in accordance with Bipartite Settlement and therefore the same was fair and proper.

8. Denying the contents of paras of statement of claim it is submitted by the respondent that the cessation of job by Shri Gupta was voluntary and it was not a case of terminating the services, effected by the respondent; that the action of the respondent bank was in complete consonance with the provisions of para 17 of 5th Bipartite Settlement and that since the seporation of Mr. Gupta was voluntary, therefore, it did not attract Section 25-F of the Act; that the judgements, relied by the petitioner, in his claim petition are no attracted in the facts and circumstances of the present case as the cessation of job by Mr. Gupta

was as a result of his voluntary act. The same did not attract enquiry as there was no disciplinary action anticipated or taken against him; that as per the facts stated, the petitioner had tested the patience of the respondent bank for long and the bank took extra care to wait for the petitioner even after the expiry of the statutory period, as such the respondent did not commit any mistake in following the provisions of Settlements and Standing orders, much less the principle of natural justice. Therefore, the action of the respondent can not be challenged on any ground nor the petition is maintainable. It is also claimed by them that the petitioner is not entitled to reinstatement what to talk of continuity of service and the benefits claimed by him., which according to him, are due to him but for his cessation from service.

9. The petitioner filed rejoinder to the written statement of the respondent and reiterated almost the same facts, already stated in the claim statement. He further submitted that the objection regarding appearance of advocate was raised by Mr. M.S. Chohan, the rep. of the respondent but he did not press the same, therefore, it is too late for the respondent to raise the same objection which was withdrawn on 22-2-1994. Raising a legal objection about the efficacy of clause 17(a) & (c) of the 5th Bipartite Settlement, it is submitted by the petitioner that these provisions could not be in derogation of the mandatory provisions of Section 15&FJ of the Act. The respondent have otherwise waived their right of discretion, to apply provisions of clause 17(c) of the Bipartite Settlement when they did not enforce the first notice dated 23rd of March 1991. The petitioner has further objected to the claim of the respondent that the notices were duly served upon the petitioner. Admitting that the New Bank of India was amalgamated with the Punjab National Bank on 4-12-1993, but denied that the petitioner had absented from duty without justification. The petitioner reiterated the stand, taken by him in the preliminary objection and submitted that the respondent could not terminate his services without holding enquiry, and that the lapse of the petitioner, if at all it was there, was nothing more than a minor misconduct for which only the punishment of stoppage of increments could be awarded whereas the terminations of the services of the petitioner was disproportionate to the lapses. The petitioner in the end has again prayed for setting aside the order of termination and reinstatement in service with all consequential benefits and back wages as if he has been in service.

10. In support of his claim the petitioner filed his affidavit and also came in the witness box to admit the contents of the affidavit and to stand to the cross-examination of the respondent. On the question put to him by the counsel on 14-12-1994 he stated that the affidavit tendered by him Ex W1 is correct. When cross-examined by the counsel for the respondent he stated he had worked with the respondent till 9-2-1991; that he had not filed any

appeal against the order of his termination which he received on 30-5-1992; that he had not attended to his duties after 9-2-1991 since he was ill; that he had applied for leave but did not submit any medical certificate he had submitted the leave applications from time to time. He has admitted that he can not produce copies of the leave applications which he had submitted to the bank authorities; that he remained under the treatment in Medical College Rohtak; that he had attend to his duties only once between 1-2-1989 to 9-2-1991 as he was on leave without pay during that period; that his leave for that period was not sanctioned; that he is still under treatment at Medical College Rohtak.

11. He has further submitted that he is not doing any job these days; that he does not remember whether he had received letter dated 10-12-1990, Mark "A"; that Santosh Gupta is his wife and Ex. M1 bears her signatures. He has also denied to remember whether he has received letter dated 6-2-1991, copy of which is Ex. M2; that his joining report bears his signatures; a copy of which is Ex. W3 is on record; that he has seen letter dated 10-12-1990, a copy of which is Ex. M4; that he had received copy of letter dated 23-3-1991, a copy of which is Ex. M5; that he had not received letter dated 21-2-1992 copy of which is Ex. M6; that AD Ex. Ex. M7 does not bears the signatures of his wife, Santosh Gupta.

12. The respondents produced both of their witnesses A.K. Tuli and R.S. Khurana for examination and cross-examination A.K. Tuli admitted that affidavit Ex. M1/8 bears, his signatures and is correct, that since he was not posted in the Outer Killa Road Rohtak Branch of the respondent bank from 1-2-1989 to 9-2-1991, therefore, he can not say whether the workman had applied for leave during that period or not R.S. Khurana also admitted the contents of his affidavit Ex. M9 as correct. He further stated that as a senior manager he was holding the responsibility of establishment branch of the respondent bank and he enjoyed the powers to grant casual as well as earned leave to his subordinate. In his absence the manager was empowered to grant casual as well as earned leave to the employees.

13. Besides the oral submissions, made by the parties for and against their claims, they have also tendered documents Ex. W1 and Ex. M1 to M9.

14. From the pleadings of the parties the admitted facts which emerge out are that the petitioner had joined service with the New Bank of India on 24-10-1992. He worked there till 1989 when he was posted in Rohtak Branch of the said bank as special assistant. During his posting at Rohtak he absented from duty from 1-2-1989 and remained so till 9-2-1991 when he reported for duty and again absented from 11-2-1991. The claim of the petitioner is that during that period he could not attend to his duties. Whereas the claim of the respondent is that despite repeated

notices the petitioner did not resume his duties and during this period he only came to the bank on 9-2-1991 and again absented. It is now this fact which is to be examined whether the petitioner had absented from duty consciously and thereby giving sufficient reasons to the respondent to believe that he has voluntarily retired from service.

15. Here it may be noticed that at present the respondent in this case is Punjab National Bank with which the New Bank of India had merged by the Govt. of India notification dated 4-9-93 and as a result of that amalgamation, the present case is filed against the management of Punjab National Bank, Rohtak.

16. The claim of the respondent is that the parties were governed by the 5th Bipartite Settlement clause 17(a) & (c) thereof reads as under :

“Clause 17(a): When an employee absent, himself from work for a period of 90 or more consecutive days, without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally/ subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter give a notice to the employee at his last known address calling upon him to report for duty within 30 days of the date of notice, stating *inter-alia* the grounds for coming to the conclusions that the employee has no intention of joining duties and furnishing necessary evidence,—where available. Unless the employee reports for duty within 30 days of the notice or gives an explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has no intentions of not joining duties, the employee will be deemed to have voluntarily retired from the bank's service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of the expiry of the aforesaid notice without prejudice to the bank's right to take any action under law or rules of service.

Clause 17(c): If an employee again absents himself within a period of 30 days without submitting any application after reporting for duty in response to the notice given after 90 days or 150 days absence, as the case may be, the second notice shall be given after 30 days of such absence giving him 30 days to report. If he reports in response to the second notice, but absents himself a third time from duty within a period of 30 days without application, his name shall be struck off from the establishment after 30 days of such absence under intimation to him by registered

post deeming that he has voluntarily vacated his appointment.’

17. The respondents, have further claimed that after the petitioner absented from duty on 1-2-1989 without any justification and information to the respondent, his employer waited for him for a considerable time and then a notice was issued to him on 30-10-1990 followed by another notice dated 10-12-1990 by which the petitioner was advised to report for duty within seven days. However Shri Gupta did not resume his duties nor responded to the notices. Therefore, a final notice was issued to the petitioner on 11-1-1991 again advising him to resume his duties within 30 days, with further caution to him that in case he failed to resume his duties his employer shall be at liberty to presume that he has sought voluntary retirement, from service, that after the expiry of 30 days he will be deemed to have retired from service. The second notice was issued to the petitioner under registered cover A.D., but it did not bear the fruits, therefore, another notice dated 5-2-1991 was given to the petitioner giving him further 30 days to resume duties. Shri Gupta reported for duty on 9-2-1991, but again absented from 11-2-1991 without any information and justification. There upon the Regional Manager of the respondent Bank, Rohtak issued fresh noticed dated 23-3-1991 and sent the same under registered cover with A.D. again giving 30 days time to the petitioner to report for duty. In that notice also the petitioner was again made to know that if he fails to report for duty within 30 days from the date of receipt of the notice, the employer shall take it that the petitioner does not intend to join duties and he will be treated as having voluntarily retired from service on the expiry of the notice period. According to the respondent, the petitioner did not respond to the notices. He was given another notice dated 21-2-1992 which too was sent under registered cover besides under postal certificate and by that notice also 30 days time was given to Mr. Gupta to resume his duty. It is in these circumstances that the employer, P.N.B., through its branch manager informed the petitioner that since he has not reported for duty within 30 days, therefore, his name has been struck off from the rolls of the bank in terms of their letter dated 21-2-1992. According to the respondent the petitioner was waited upon to resume his duties for more than three months from the date the second notice was issued on 21-2-1992.

18. Respondents have placed on record photo copies of a number of document Ex. M2 to M9 which includes the affidavits of two witnesses produced by the respondent, acknowledgment due of the registered letters, sent by the respondent to the petitioner, which according to them were received by the wife of the petitioner. Among these documents are the notices issued to the petitioner on 21-2-1993, 23-3-1991, 10-12-1990, and 5-2-1991. They have also placed on record the joining report of the petitioner which he submitted on 9-2-1991, in compliance to the letter of the

respondent bearing No. 232 dated 11-1-1991. From these documents it is amply clear that the respondent had issued a number of notices to the petitioner, asking him to resume his duties and they repeatedly cautioned the petitioner that in case of failure to comply with the directions of the respondent, it will be presumed that he has no intentions to join his duties with the respondent bank and he will be treated to have voluntarily retired from the service of the bank from the date the 30 days period of notice expires. Ex. M2, Ex. M5, Ex. M6 are clear in this regard. It is true that by notice dated 10-12-1990 the petitioner was given 7 days time to explain his absence from duty and was also directed to resume his duties. The petitioner filed his affidavit in support of his claim and also appeared as a witness to face the cross-examination by the respondent.

19. The petitioner in his statement claimed that he had worked in the respondent bank up to 9-2-1991 and stated nothing about his absence from duty w.e.f. 1-2-1989. He claimed that he had applied for the leave, but without furnishing any medical certificate. The respondent bank has clearly denied having received any prayer, from the petitioner for granting of leave and the petitioner has produced no evidence to show that he had ever applied for grant of leave to the respondent. He failed to furnish even the copies of the applications for grant of leave and made a statement that he had sent the applications to the bank authorities without showing to which authority, person and by which mode the applications were submitted. With regard to the claim that he remained under treatment with Medical College, Rohtak, he has produced no record to that effect, to substantiate his claim that he ever remained under the treatment of Medical College authorities, Rohtak. The wisdom dawned on him at a later stage when he admitted that right from 1-2-1989 to 9-2-1991, he had attended his office only once.

20. Now coming to the claim of the respondent that the notices were sent to the petitioner to resume his duties and the same were received by his wife, the petitioner showed his inability to recall whether he had received the letter dated 10-12-1990 from the respondent, but admitted that Ms. Santosh Gupta is the name of his wife and Ex. M1, the acknowledgement due, bears the signatures of his wife. He made the same statement about having received letter from the respondent dated 6-2-1991 Ex. M2, but stated that Ex. M3 is the joining report he has submitted. He admitted that he had received the letter dated 23-3-1991 Ex. M5 but denied that he had received letter dated 21-2-1992, the copy of which is Ex. M6. He has categorically denied that Ex. M7 bears the signatures of his wife Santosh Gupta.

21. From the statement of the petitioner it comes out that he had received the notices from the respondent such as letter dated 21-3-1991 and the notice which was sent by registered post, alongwith A.D. receipt Ex. M1. He made evasive reply about having received letter dated

10-12-1990 and 6-2-1991. He denied that A.D. Ex. M7 bears the signatures of his wife whereas the claim of the respondent is that by virtue of a registered letter A.D., a notice was sent to the petitioner which was received by his wife and A.D. is on record as Ex. M7. The petitioner has not produced any evidence to substantiate his claim that Ex. M7 does not bears the signatures of his wife. The best evidence in these circumstances could be the statement of wife of the petitioner only who could say whether or not the signatures on Ex. M7 are that of her's or of some body else. Non production of Ms. Santosh Gupta, by the petitioner, goes against him since he has also not shown as to why she has not been produced or for such and such reason she could not come into the witness box. The presumption goes against the petitioner that Ex. M7 is an acknowledgement receipt of the letter sent by the respondent and which according to them, was received by his wife. In the face of evidence produced by the respondents it is clear that the petitioner had been given notices after notices such as Ex. M2, M4, M5, M6 but he did not respond to these notices and right from 1-2-1989 to 21-2-1992, the petitioner did not attends to his duties except for one day i.e. 9-2-1991 and he failed to explain his absence from duty by any evidence that he was sick and was treated in the Medical College, Rohtak.

22. The petitioner has based his claim on the ground that during the period from 1-2-1989 to 9-2-1991 he could not attend to his duties on account of his illness, a fact which he had conveyed to the branch manager Outer Killa Road, Rohtak. After attending his duties on 9-2-1991 he again proceeded on leave from 11-2-1991 without showing as to till what date he remained on leave. He has claimed that the action of the respondent to terminate the services of the petitioner is contrary to the provisions of clause 17 of the 5th Bipartite Settlement since the respondent did not act when first notice dated 21-2-1992 and by subsequent notice dated 21-2-1992 they waived the right accrued to them, by earlier notice and the termination of the services of the petitioner in terms of notice dated 21-2-1992 is bad in law.

23. The next claim of the petitioner is that by their judgement, reported as *Upton India Ltd Vs. Shammi Bhan*, Apex Court has laid down that in terms of para 17(g) of the Certified Standing Orders, to terminate the services of the workman simply on the basis of absence from duty beyond the notice period of seven days, would be wholly illegal as the workman is entitled for an opportunity to justify his/her absence and automatic termination, after the expiry of period of notice, would be illegal. The petitioner has based his claim further on the ground that his termination of service amounted to 'retrenchment' that having been effected without complying with the provisions of Section 25-F of the Act, is bad in law and therefore, his termination is non-existent and the petitioner is to be treated in continuous service. He has referred to a judgement of High

Court of Punjab & Haryana in case of Prem Lal Vs. Presiding Officer 2001(4) S.C.T. 381. He has also referred to the judgement reported as Pepsu Road Transport Corporation Vs. Presiding Officer, 1994(4) SCT 444, and Ram Narain Shukla Vs. Industrial Tribunal Haryana 1997(3) LLN 669.

24. Relying upon the judgement of Punjab & Haryana High Court in the case of Hari Place Ambala City Vs. Presiding Officer reported as 1979 (3) SLR 223 the petitioner has claimed that since his termination is wholly illegal and void abinitio, therefore, he is entitled to full back wages and other benefits.

25. I have considered the submissions made in writing by the representative of the petitioner and have also gone through the judgements referred to above by parties.

26. Main plank of the claim of the petitioner is dependant upon the provisions of clause 17 © & (g) which have been extracted above. From the perusal of these two provisions, read with the law laid down by the Hon'ble Supreme Court in the case reported as Upton India Ltd. (Supra), the ratio which emerges out is that where an employee enjoys permanent status, his termination from service on the ground of over stay of leave without permission for more than seven days is bad in law, since the status of permanency in service gives the right to the employee to be heard before termination of his service and the automatic termination after the expiry of the notice would be illegal. The Apex Court thus has laid down further that any contract of service with such stipulation in the rules or Standing orders is also bad in law and against the principles of natural justice and Articles 14 and 16 of the Constitution. The law laid down by the Hon'ble Supreme Court of India is the law of land but in my opinion authority referred to is not helpful to the petitioner for the reason that in the case of Shammi Bhan (supra) there was only one notice issued to the workman and her employer had terminated the services of the workman after the expiry of the period of notice; and no effort was made by the employer to issue second notice to the workman extra patience, before striking the name of the workman from the rolls of the company, was not resorted to. In the present case, the petitioner was not only given more than two notices, but even after the expiry of the period of second notice, the respondent waited for the petitioner to respond or to resume his duties for more than two months. There is ample record on the file to show that both notices were received by the wife of the petitioner and now it does not lie in the mouth of the petitioner to say that he had not received the second notice. In the second notice also he was also given further time to resume his duty which he failed to do.

27. A look at Clause 17 of the 5th Bipartite settlement, shows that the settlement has given powers to the

management to issue a notice to the employee, if the employee remains absent from duty for a period of 90 days or more without submitting any application for leave or for extension of leave or without any leave to his/her credit or beyond the period of leave originally granted, or where the management is reasonably satisfied that the employee has no intention to join his duties. As in this case, the management, after finding that the petitioner had not reported for duty for more than a year, issued notices after notices, which, as is proved were received by the petitioner through his wife. The management after having been satisfied that the petitioner has not resumed his duties within 30 days from issuance of notice, they felt satisfied that the petitioner has no intention to resume his duties and has voluntarily retired from bank's service. The resumption of the duty by the petitioner on 9-2-1991 shows that he had received these notices, that is how, he had referred to one of the notices in his joining report, but he again absented from duty w.e.f 11-2-1991 and remained so without submitting any explanation till 30-5-1992 on which day the respondents informed the petitioner that his name has been struck off from the bank's roll. In the case of Upton India Ltd. (supra) the Apex Court laid down that the services of the workman are liable to be automatically terminated on the ground of over stay of leave without permission for more than seven days. In case of sickness, the medical certificate must be submitted within a week. In the present case the petitioner neither submitted medical certificate within a weeks time nor he did so till date. Had he the record to support the case of his illness he could have submitted it to the respondent or atleast in the Court to claim the benefit of natural justice, which he has badly failed to do.

28. After sifting, scanning and weighing all the facts brought on the record, I am of the opinion that the petitioner has badly failed to show that the action of the erstwhile New Bank of India (now merged with the Punjab National Bank) Rohtak in treating Shri Vinod Gupta as having voluntarily abandoned his services with the bank and terminating his services w.e.f 21-03-1992 was unjustified. The evidence is rather to this effect that the petitioner tested the patience of the respondent bank for a long period and did not resume his duties even after receiving a number of notices. By his this act he made the respondent to believe that he had no intention to resume his duties, thus had voluntarily retired from the service. The petitioner in my opinion is not entitled to any relief. Reference is answered accordingly. Let the copy of the Award be sent to the Govt. of India for information and necessary action.

Chandigarh

Dated 29-6-2004

KULDIP SINGH, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2127.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पंचाट (संदर्भ संख्या 41/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-7-2004 को प्राप्त हुआ था।

[सं. एल-17012/70/94-आईआर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/95) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 30-7-2004.

[No. L-17012/70/94-IR (B-II)]

C. GANGADHRAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. ID 41/95

Received on : 1-6-1995

Decided on : 21-7-2004

Miss Seema Popli,
R/o 100-R, Model Town,
Karnal-132001.

... Applicant.

Versus

Senior Divisional Manager,
L.I.C. Divisional Office,
Karnal-132001.

... Respondent

Appearances

For the Workman : Sh. O.P. Batra
For the Management : Sh. R.S. Longia

AWARD

Central Govt. in exercising the powers U/S. 10 of the I.D. Act 1947 vide No. L-17012/70/94-I.R. (B. II) dated 24th May, 1995 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Life Insurance Corporation of India, Karnal in discharging Ms. Seema Popli, Probationary Assistant from service w.e.f. 2-11-1992 is legal and justified? If not, what relief is the said workman entitled to?"

2. On receipt of the reference notices were issued to the parties and petitioner appeared through counsel and respondent appeared for the first time on 13-7-95 and the petitioner appeared on 2-11-1995. On that date the petitioner filed his claim statement to which the respdt. filed written statement on 13-2-1996. The petitioner was allowed opportunity to file rejoinder, but the record of the file shows that she did not file any rejoinder or the affidavit. Similarly the respondents have also not filed any affidavits. The Court allowed a number of adjournments to the petitioner to file affidavit even on cost. Cost was paid, but the petitioner did not file any affidavit in support of her claim. On record there is only claim petition and the written statement filed by the parties, but there is no evidence, produced by them, in support of their respective cases. Record of the file further shows that even respondent have not appeared for the last three hearing. Similarly the petitioner has also not appeared.

3. Today when the case of the workman was called, the erstwhile counsel for the petitioner stated that he has no instructions to appear in the case. It is further stated that he has tried his best to contact the petitioner and in that regard he has sent messages even under registered cover, but of no response. Counsel for the respondent also did not appear at the time when the case was called. However he appeared later on. On record there is no evidence to find out whether or not the action of the management in discharging the services of the petitioner, who was a probationary assistant w.e.f. 2-11-1992, was legal and justified or not. Whatever is claimed by the petitioner has clearly been denied by the respondent. Thus pleadings of the parties are of no help to the Court to come to the conclusions and answer the reference. The conduct of the petitioner has made the Court to believe that she has no interest left to pursue her cause so as to get the relief, if any, due to her. Reference is therefore, answered in the terms that there is no evidence to show that the action of the management of LIC in discharging Ms. Seema Popli, Probationary Assistant, from service w.e.f. 2-11-1992 was illegal and unjustified. The award, in these terms, is passed. Central Govt. be informed.

Chandigarh :

21-7-2004

KULDIP SINGH, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2128.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में राष्ट्रीय औद्योगिक अधिकरण मुम्बई (संदर्भ संख्या एन.टी.बी.-1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-2004 को प्राप्त हुआ था।

[सं. एल-22012/28/2002-आईआर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 30th July, 2004

S.O. 2128.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No NTB-1 of 2003) of the National Industrial Tribunal Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to management of Food Corporation of India and their workman, which was received by the Central Government on 6-7-2004.

[No. L-22012/28/2002—IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL
AT MUMBAI**

Present :

Shri Justice S. C. Pandey,
Presiding Officer

Reference No. NTB-1 of 2003

Food Corporation of India

and

Their Workmen

Appearances :—

Party No. 1, FCI Workers : Indira Jaisingh, Advocate
Union

Party No. 2, FCI : Shri Pradhan, Advocate
Management

Party No. 3 to 15, 17, 18 : Shri S.P. Pipal, Advocate
& 19 FCI (Handling)
Workers Union.

Party No. 16, (Surendra : Shri M.B. Anchan,
Kumar & Ors.) Advocate

Party No. 20 & 21, All : Shri Gadkarik, Advocate.
India Palleder Workers'
Federation.

Mumbai, dated this the 27th day of May, 2004.

ORDER

1. This Order shall govern the disposal of the applications for interim relief filed by the workmen against the Food Corporation of India (The FCI for short).

2. In the application dated 3-11-1993 filed by the Food Corporation of India Workers' Union Kolkata (party No. 2) the claim is for Rs. 100 per day in addition to the wages for each workers. In the application dated 11-11-2003 filed by Mohd. Hassim (opposite party No. 3) representing the workmen of FCI, Food Storage Depot, Imalia, Distt. Bulandshar the claim for interim relief is Rs. 3000 per month. The opposite party No. 4, representing the workman of Food Storage Depot, Bamanheri, Muzafarnagar, U.P. by application dated 11-11-2003 filed

by Ram Sobhit makes the claim for Rs. 3000 per month, per workman. The party No. 5 the workman at Food Storage Depot. FCI Quarasi Aligarh have filed application dated 11-11-2003 making a claim for interim relief of Rs. 3000 per month per workman. This application is filed by Dinesh Kumar. The workman of Food Storage Depot, FCI Rai Bareilly has filed application dated 11-11-2003 through Kishan Lal. This party has also made a claim for Rs. 3000 per month per worker, against the FCI. The party No. 7 workman of FCI at Koshikalan Distt. Mathura, U.P. have filed application dated 11-11-2003 through Mukh Lal Pandey. The claim is Rs. 3000 per month per worker as additional interim relief. One Ful Chand Yadav representing the workman of Food Storage Depot of FCI at Koshikalan Depot, Fatehpur, U.P. Party No. 8 has also filed application dated 13-11-2003 claiming interim relief of Rs. 3000 per month per worker. The party No. 9, the workmen of Food Storage Depot of FCI at Rai Bareilly has made a similar claim and claimed the same relief as per application dated 13-11-2003 filed through one Choudhary Sardar. The party No. 10, the workmen of Food Storage Depot, Food Corporation of India, Dhamania Distt. Raipur, U.P. has filed the application for interim relief dated 13-11-2003 claiming that the workmen be granted Rs. 3000 per month per workers by way interim relief in addition to the wage received by the workers. This application has been filed by Ibrahim & Nagendra Thakur representing the workmen as Food Storage Depot of FCI at Kokrajhar, Gasaim Nagar has filed an application dated 11-11-2003 claiming that workmen were entitled to relief of Rs. 3000 per month per worker in addition too the wages earned by them each month. The opposite party No. 12, the workman of Food Storage Depot Panam Ding, Anary Mandi Kohipur Distt. Kaham Sing Nagar, Uttranchal has filed an identical application dated 11-11-2003 claiming that each workman is entitled to additional Rs. 3000 per month by way of interim relief. This application has been filed by Abdul Haque. The opposite party No. 13, the workmen of Food Storage Depot FCI Dehradun have filed an application dated 13-11-2003, through Mohammed Hanif claiming the identical relief for each of workmen i.e. additional Rs. 3000 per month. The opposite party No. 14, the workman of Food Storage Depot, FCI, Itarsi Distt. Hasbanga based filed a similar claim for the workmen represented by Niranjana Paswan who filed the application dated 11-11-2003. The relief is same i.e. Rs. 3000 per month in addition to the wages already received by the workmen. The opposite party No. 15 filed application. dt. 11-11-2003 through Bismillah Ansari representing the workmen of Food Storage Depot, Ghannormor. Tahsil Rajpura Distt. Patiala Punjab has claimed the relief of Rs. 3000 per month per worker by way of additional claim during the pendency of this reference. The opposite party No. 16 has filed the application dated 11-11-2003 through Surinder Kumar, representing the workmen of Food Storage Depots of FCI at Ghevra and Shaktinagar claiming that the workmen be

given an additional relief of Rs. 3000 per month per worker in addition to the wages that he may be earning. The opposite party No. 17 has filed application dated 11-11-2003 through Anandi Paswan, who represents the workmen of Food Storage Depot of FCI at Partapur, Meerut, U.P. for grant of interim relief to extend of Rs. 3000 per month in addition to what they are earning. The opposite party No. 18 the workmen Patti Depot, ARDC Amritsar, Punjab have filed application dated 14-11-2003 through Kashmir Singh have claimed the interim relief of Rs. 3000 per month as additional interim relief. The opposite party No. 19, FCI Handling Workers Union filed application dated 31-1-2004 through Maheshwar Mahto (General Secretary). It adopted claim statement filed and the application filed by opposite parties No. 3 to 18. It also claimed the same relief for Food Handling Workers of Direct payment system and No work No pay system as was claimed in the applications of party No. 3 to 18 that is an additional Rs. 3000 per month per worker.

3. It would now be proper to give the back ground of this reference with a view to understand the substance of the interim relief claimed by the applicants. The Central Government has made this reference in exercise of its powers under Section 7B and sub-section 1A of Section 10 of the Industrial Disputes Act, 1947 as per order dated 8-7-2003. The terms of reference are as follows as given in the schedule :

“Whether the workers working under Direct Payment System, no work no pay system and the management committee system are entitled for the same pay and other benefits as are available to the departmentalized labour in various depots of FCI throughout the country? If so, to what benefits they are entitled to?”

It appears from the order of reference that it was brought to the notice of the Central Government that the Supreme Court of India had directed in the Writ Petition No. 422/2000 that the industrial dispute in question could be decided at level of this Tribunal. It was also noticed by the Central Government that a number of Writ Petitions were filed in Delhi High Court raising the same dispute. It appears that the industrial dispute covered the Food Storage Depots of the FCI throughout India, therefore, the matter was referred this Tribunal after constituting it under Section 7B of the Act. As statements of clause show that the crux the dispute is if the Food Corporation of India can discriminate in the matter of pay and other service conditions by employing the workers who employed in handling the food baggages for the purpose of loading, unloading and storage by adopting different systems. It is alleged that the FCI employed departmental labour for the above purpose. Since the departmental labour was an employee of the FCI he was paid a higher pay scale applicable to the employees. In other case the FCI adopted a system (a) Direct Payment System (b) No work No pay

System (c) Management Committee System. It is claim of the workmen that the nature of workmen under the aforesaid three systems does not change because they were alleged to have employed under different rubrics. The work performed by all the workmen is loading unloading for storage or transport and is called handling emphatically. The departmental labour also does the same work. Therefore there could not be any discrimination by paying them less. This is the case of all the workmen on merits and they have elaborated their claim in their statements of claim. At moment, this Tribunal is stating the nature of dispute only. Here the thrust of claim of the workman is indicated. The Food Corporation of India disputes the proposition that the principles equal pay for equal work could be employed. Broadly speaking it is asserted that departmental labour cannot be placed on the same pedestal as other category of employees. The systems adopted by FCI had their roots in the history and the necessary. It was not a question of fact if each category of system mentioned above could be pitted against the departmental labour. It appears to be claimed on behalf of the FCI that answer to the reference shall in its favour after the parties led the evidence.

4. In last paragraph, this Tribunal gave broad contours of the industrial dispute with a view to facilitate passing of this interim order. It would be now proper to summarize the claim of the workmen in their applications for interim relief. It is asserted that a large majority of workmen working under the Direct Payment System, No Work No Pay System and Management Committee System are paid the wages that they were receiving in the year 1994-1995. There was no revision of wage structure. It is alleged that only benefit that was being given to the concerned workmen increase in Dearness Allowance once in two years. It is alleged by FCI Workers Union Kolkata that its demand for revised wage structure was not accepted owing to the pendency of this reference. It is alleged that as per Bureau of Public Enterprises that there should be revision of wage structure every five years or high wage increase every ten years. However the concerned workmen shall not get the benefit of such revision. It is alleged that in case of departmental labour there was a wage increase in basic wage to the extent of 442.75% in last ten years. It has been stated that the concerned workmen have suffered in the meanwhile because there was zero % increase in basic wages. There was complete stagnation so far as the workmen represented by the union were concerned. It was stated in the application that workmen had a *prima facie* case in their favour as they shall be involved in long industrial dispute with the FCI and therefore, it would be proper to grant a consolidated increase payable to each workman per month.

5. The rest of the parties have filed identical applications. Therefore it would be proper to give a short summary of one of the applications. The opposite party

No. 3 on behalf of D.P.S. workers Food Storage Depot, Imaliya, Sahkamagar, Bulandshahar has stated as follows. It is stated in this application that all the workmen in the Food Storage Depots were performing the same work i.e. loading, unloading, stacking, destalking of food grains bags, delivery weighment, physical verification standardization, filling of gunny bags, grains salvaging of damaged grains, cleaning and sweeping. The departmentalized workmen also do the same work. There is no difference in the nature of work. But there is vast difference in the emoluments. For departmental labour the basic wage in pay scale for Sardar Rs. 4160-7820, Mondal Rs. 4000-7330, Handling Labour Rs. 3900-6860, and Annularly labour Rs. 3840-6720. Besides they get D.A. HRA, CCA, Special Pay, Washing Allowance, CA. No work no pay system has been bifurcated to two categories—(i) with minimum guarantee (ii) without minimum guarantee. Those who are given minimum guarantee are for Sardar Rs. 126/- Mondal Rs. 119, Handling Labour Rs. 116/- and Annularly Labour Rs. 97/- per day. It is stated that the National Industrial Tribunal, Mumbai by award dated 1-4-1991 had held that the work done by the Departmentalized labour was absolutely similar to the work performed by the labourers working under Direct Payment System. Thus these another two main applications. The rest of the applications are similar as the application summarized above. One or two applicants adopted the contents of both the applications.

6. It is made claim that none of counsel brought to my notice application dated 5-12-2003 filed by opposit party No. 17 supported by the affidavit of Anande Prasad Paswan. A reply dated 22-12-2003 was filed by G.S. Jena, Secretary of the Food Corporation of India Workers Union, Kolkata denied the allegations regarding capacity of Shri Dulal Chandra Nath. He referred to certain orders passed in No. 681 of 1999 and 2349 of 2000. It was claimed that virtue of Resolution dated 11-4-2002 the executive committee of FCI Workers Union was acting as a Joint Secretary. This application was not pressed by counsel for opposite party No.17 Shri Pipal, Advocate. It does not appear this Tribunal that opposite party No. 17 and party No. 2, the Food Corporations of India Workers Union, are on the same side. There is no lis' against each other. Therefore there was no occasion to file this application challenging the authority of Shri Dulal Chandra Nath. This is particularly so when none of so called namely electer person has challenged his authority or that FCI has done so. It would be waste of time if this Tribunal is required to enter into side line of the dispute at the instance of party who shall give no benefit to the workmen in general. The application dated 5-12-2003 is rejected on the ground that the opposite party No. 17 has no locus standi to challenge the affidavit filed by Dulal Chandra Nath. This Tribunal make it clear, as it had done earlier with order dated 7th January, 2004, that Tribunal does not consider its duty

decide about the inter union rivalries to the detriment of workmen who are fighting their case against the FCI.

7. The FCI in its reply stated as follows: It is stated that the workmen in question have no right in law to claim the interim relief. It has been stated that one of the unions had moved an application for grant of interim relief in W.P. No. 42/2000. The Supreme Court declared to grant relief to the workmen. According to FCI the workmen suppressed this fact. It was claimed that there was no *prima facie* case in favour of the workmen. It was argued that the questions in this reference are not simple but mere of complex nature. The assumption that the workmen were entitled to the benefit of equal pay for equal work depended upon number of factor, which was still undecided. Since they are not admitted it is not a case of more application of legal principles to the admitted or undeniable facts. It was pointed that there are number of depots like Quasi Depot at Aligarh where the work loading the entire year to extent of 25 days. It was submitted that due to the introduction of minimum guaranteed Wages the FCI was required to pay idle wages. The FCI would place burden on the exchequer if it was required to pay out of the subsidies provided by the Central Government. It was stated that historically the three systems grew out of negotiated settlement, All the three systems i.e. Direct Payment System, No work No Pay System and the Workers Management Committee System were evolved because various union demanded them as substituted for contract labour system. These systems were subject matter of settlements and therefore, the question of revision stipulated benefits and other benefits did not arise. There was no failure as such on the part of FCI to revise the wages. In fact in these three systems the profit of the contract is eliminated for their benefit. The workmen are paid in accordance with the rates of per bundled. However the work of each depot cannot be compared with that of a depot where the system of departmentalized labour is in operation. The works at these depots may be sporadic, intermittent and seasonal. There may be other factors involved like Export/Import policy, richness of crops, or natural calamities. Thus therefore there is no uniformity in the pattern of work at various depots. The reply relied on the detailed reply to the statements of claim. In its para wise reply to the application each and every paragraph was traversed in case of all the applications. Therefore it would be proper to summarize the core points.

A. There was no *prima facie* case in favour of the workmen because they were prejudging the issues united.

B. The fact that Supreme Court declined to grant interim relief is a pointer in the direction that this Tribunal should not grant interim relief to the workmen. It was submitted that the workmen could not be granted the same status for the workers under the systems as the departmental labour because the grant of that status would not caused by the terms of reference. It was stated th after signing the Memorandum of Settlement d

11-11-1994 there was no Depot where the management committee system was in operation. It was stated that for D.P.S. Workers Rs. 115 was paid for unloading food 100-grain bags from wagon/trucks or any other transport vehicle or directly loading on Truck/Wagon or any other Transport Vehicle. This piece rate of work was the basis for actual quantum of work performed by Departmental Payment System. Since lack of uniform work in each depot the 1-1-1994 settlement granted have Rs. 71, Rs. 67, Rs. 65 and Rs. 55 to Sardar, Mondal, Handling Labour and Ancillary Labour as such for handling 100 bags. On the basis settlement the piece rate is being revised every two years on the percentage increase in All India Consumer Price Index published by the Simla Bureau. Thus the piece rate was increased Rs. 105 per loading in the year 2002. Accordingly minimum guaranty on 1-1-2002 was Rs. 126 for Sardar, Rs. 119 for Mondal, Rs. 116/- for Handling Labour, Rs. 97 for Ancillary Labour. This existed Minimum Guaranteed Wage under the Departmental Payment System. It was submitted that the concerned workmen could not be equated with regular employees of the Corporation. There was no question of payment of Dearness Allowance to the three systems. All other allegations were denied as misleading. It was asserted that it was wrong to compare the workmen under these systems with that Port and Dock Workers. It was not disputed that the FCI was paying the same increase as payable to Port and Dock Workers to its Departmental Labour but this fact had no relevance to the present reference. It was reiterated again and again the three systems in the FCI i.e. Direct Payment System, No Work No Pay System and workman Management Committee System were governed by specific terms of agreement. It was said that since the payment at piece rate was revised to Rs. 205 per hundred bags in 2002 as against Rs. 115 per hundred bags in the year 1994 it cannot be said that wages remained stagnant even though, the cost of living rose. It was said that the application was not maintainable.

8. The opposite party No. 3 filed a rejoinder. It was pointed out that the Tribunal had power to grant any relief. Which is incidental to main question that flowed from the terms of reference. The power to pass an interim award can be inferred from the express words of Section 2(p) of the Act. Therefore the contention by way of preliminary objection had no force. It was further asserted that principle equal pay for equal work depended on the nature of work.

9. The FCI chose to adopt its reply to the application of party No. 3 in all other cases of workmen who filed separate applications.

10. This Tribunal has heard respective counsel for the parties on the question of grant of interim relief.

11. At out set, it would be appropriate to dispose of the preliminary point raised on behalf of the FCI. It has been argued on by Shri Pradhan for the FCI that this Tribunal is a creature of statute. It does not have untrammelled power

like a Civil Court. It has been argued with some measure of force that the terms of reference did not permit to travel beyond the dispute referred it.

12. This argument has been countered by M/s. Indira Jaisingh for opposite party No. 2, Shri S.P. Pipal for opposite party Nos. 3 to 15, 17 and 18, Shri M.B. Anchan for opposite party No. 16 and Shri Gadkari Advocate for opposite party Nos. 19, 20 and 21. It has been argued that power to grant interim relief is clearly adjoint to the power of grant of main relief. The Act itself says under Section 10(4) that this Tribunal had power to decide and pass award or order on all matters incidental to the main dispute. It has also been pointed out that this Tribunal is empowered to pass an interim award under Section 2(b) of the Act. The question of grant of interim relief is inherent in the main relief because the terms of reference show there is demand for equality and parity for wages. Looking to nature of dispute the number of parties involved in the dispute, this Tribunal should sit with folded hands without power to give to workmen where relief it is needed. The facts of case borne out of statements of claim and the written statement shows that workmen have *prima facie* case in their favour, there is balance of convenience in their favour and if they are not paid by way of interim relief then there is no possibility of subsequent compensation because they are making their demands on felt need.

13. In the opinion of this Tribunal that the point raised on behalf of the FCI cannot be agitated before this Tribunal. In the case of the Management Hotel Imperial Vs. Hotel Workers' Union AIR 1959 SC 1342 it has been held the industrial Tribunal had power to grant interim relief as a matter incidental to main question referred to the Tribunal even where the incidental relief was not being referred to in express terms. Therefore the argument that this Tribunal did not possess any power, whatsoever was to be rejected. The terms of the reference have been reproduced in paragraph 3. It would be clear from the terms of reference that expressly the question of grant of interim relief has not been referred to. However, it is also clear that the FCI does not pay the same wages and other benefits to workmen employed under the three systems named in the order of reference as it pays to departmentalized labour. It is also clear at present from the statements of claim and the written statements that dispute between the parties like to get hotter and hotter. The dispute has a history. It begin with the filing of W.P.No. 422/2000 in Supreme Court and other Writ Petitions in Delhi High Court. The matter has not moved an inch. Nor is the sky clear before this Tribunal. It would take some time to get smack screen of litigation to clear. Therefore, the question arises, what happens to the workmen who are treated unfairly, if at all. In these circumstances, this Tribunal has incidental power to examine the question if the ends of justice require the grant of interim relief. Looked this way the workmen are entitled to interim relief. Consequently the objection of the FCI

regarding the maintainability of the application is hereby rejected.

14. The next question that arises for consideration of the workmen is entitled any interim relief. It has been argued on behalf of the FCI that their Lordship of the Supreme Court by their Judgment dated April 5, 2004 in Writ Petition (Civil) No. 422 of 2000 between Food Corporation of India Workers' Union Versus Food Corporation of India observed as under :

"Having regard to the pleadings of the parties and the factual controversy involved, we are of the view that it would not be appropriate for this Court to record its conclusions on merits. In order to give effect to the principle of equal pay for equal work, which is no doubt a constitutional obligation implicit in Article 14, we have to enter into the factual arena and embark on an investigation of disputed facts such as the work load and the working pattern in various depots of the Food Corporation of India. The mere fact that the qualitative nature of work performed by DPS workers and the departmental workers is the same, is not conclusive. Other aspects highlighted in the counter-affidavit having a bearing on the volume and duration of work in the depots have to be gone into. Incidentally, the justification and expediency of continuing the Direct Payment System which has been recognized by various settlements has to be looked into. A comparative study of the working pattern in various depots, the overall job requirements and the overall effect it will have on the body of workmen as a whole and the Management, are all matters what may be relevant to consider. It is not a case of mere application of a legal principle to the admitted or undeniable facts. But, it depends on concrete facts brought out in evidence. When the same issue is being agitated by the petitioner-union by raising an industrial dispute, it is all the more inappropriate for this Court to make adjudication on merits in a writ petition filed under Article 32. The award of the National Industrial Tribunal on which reliance was placed virtually stands superseded by the settlement arrived at between the parties culminating in the disposal of the writ petition challenging the said award in terms of such settlement."

It is argued that Supreme Court declined the relief on the ground that it was not enough that the quantitative work was same for departmental labour and D.P.S. Workers. There was other aspects that had to be looked into for grant of interim relief. This Tribunal could not apply the principle equal pay for equal work without establishment of concrete facts. Therefore the question of grant of interim relief did not arise.

15. As against this argument, it has been argued on behalf of the workmen that in above case the Supreme Court declined to grant relief under Article 32 of the Constitution of India because the FCI had raised disputed question of facts like the history despite the fact it was

conceded in favour of Supreme Court that the nature of the work was same. The Supreme Court observed that the principle for equal pay for equal work could be applied to concrete facts. It declined enter into merits of the claim because the pleadings of the parties indicated factual controversy. Therefore, the observations of Supreme Court cannot be taken out of context for arguing that there was no case for grant of interim relief.

16. In the opinion of this Tribunal the conclusion of Supreme Court was that it would not be proper to exercise its powers under Article 32 of the constitution. It is well known that High Court under Article 226 and Supreme Court under Article 32 do not enter into factual controversy which required recording of evidence. This is more so when an alternative remedy available. Therefore observations of Supreme Court have to be linked with its conclusion that relief under Article 32 of the Constitution could not be granted. On the other hand, it appears, that Supreme Court tentatively held that there was some material placed before it by the petitioners the nature of work done by the D.P.S. Workers and the Departmental Workers was subsequently same. It appears that this aspect was not disputed by the FCI.

17. After hearing the learned counsel for the parties on this aspect of the matter it appears to this Tribunal from the pleadings of the parties on merits as well in the interim applications and the material placed on record that work performed by the Departmental Labour as well as the labour employed by the FCI under DPS, No Work No Pay and the Management Committee System is no different. *Prima facie* all the workmen are employed to perform the work of loading and unloading for the purpose of stacking. Destacking or transporting the goods. Therefore there appears to be no substantial qualitative difference in the work performed by the departmental labour. In this connection it would not do out place to referred to the Award dated 1st April, 1991 passed in Reference No. NTB-1 of 1989 passed by this Tribunal. It was held in that Award in paragraph 19 that the work done by a handling Mazdoor and in Departmentalized depots is identical in all material aspects. The ultimate conclusion in that award was the action of FCI in not granting the handling workers employed in their Direct Payment System depots the same wages, status and other benefits of service conditions as of its departmentalized work held to be unfair and just In that award this National Tribunal granted parity in respect of wages status and other benefits.

18. Thus this Tribunal has an adjudicatory precedent wherein evidence was led by either parties for powering their respective cases. As far as 1st April 1991 this Tribunal had rendered an Award holding there should be parity in the service conditions of the workman serving under Direct Payment System and the workman called departmental labour. Thus this *prima facie* evidence placed on record shows that the FCI treating the workman 55 depots unfairly.

Therefore it was incumbent upon the FCI to place material on record to show that a different view should be taken. This Tribunal has considered the statements of claim and the written statements but it was unable find that there was only basis for taking *prima facie* different view of the matter. It is true that workman had to enter into settlements and work under the conditions. The FCI is state within meaning of Article 12 of the Constitution having been constituted under the Food Corporation Act 1964. It is no ordinary employer. It works throughout the contrary through its various zones. It constructs or owns its depots or takes them on hire. The material placed on record does not dispel the primordial position establishing to the contrary that workman employed at depots should be treated differently. It may be that after evidence is led before this Tribunal, the FCI may be able to justify its case that the local conditions at the depots of FCI warrant for looking at various categories of workmen difficulty.

19. Having held that *prima facie* the workman of the FCI under Direct Payment System, No Work No Pay System or Management Committee System are entitled too consideration for grant of interim relief, it is now necessary to determine the quantum of interim relief. It is, therefore, necessary to find out the degree of discrimination to which they were subjected on account of circumstance beyond their control. It is made clear that this conclusion shall be merely tentative and does not affect the decision in final award. It has been pointed out that the FCI complied with the order of this Tribunal dated 19th February, 2004 on 12-3-2004 most of the arguments of the learned counsel for workman were based on the information received from the FCI itself. A circular of the FCI has been placed on record for showing that the piece rate for calculating ASQRI and Minimum Guaranteed Daily Wage for the Direct Payment System was Rs. 2.05 per bag (each weighing more than 65 kgs.) from 1-1-2002 has been increased to Rs. 2.19 from 1-1-2000 per bag of the same quantity. Thus Direct Payment System the wages shall be calculated for measuring the actual quantum work done on the basis of revised percentage of ASOR. The minimum wage guaranteed for Sardar would Rs. 135 per day, Mondal Rs. 127 per day and Handling Labour Rs. 124 per day. The Ancillary workers shall receive Rs. 104 per day as minimum guaranteed wage. The above rate of Rs. 2.19 per 100 bags would be applicable for next two years. Thus it is not in dispute that on application revised rate there is slight improvement in the conditions of the services of workmen. This Tribunal has taken into account the change in the situation.

20. The next question is however that even after the increase in wages due to above revision in the piece rate from Rs. 2.05 to Rs. 2.19 per hundred bag above 65 kg. For determination of quantum of work and minimum wages, it still necessary to grant interim relief. It has been pointed out that relief for calculation is meager amounting to

increase from 2.05 per bag to 2.19 per bag. The increase according to because counsel for the workmen is only 14 paise. It has stated that the Departmental Labour at Mayapuri costs 11.09 per bag and at Naula Rs. 17.97. It has been pointed out that the Departmental Labour is given greater benefit in all respects. The information given in respect of Pay of Departmental Labour as on 1-1-2002 was that a Saida would get minimum salary Rs. 5624 and maximum Rs. 10,572 including the dearness allowance of 35.2%. Similarly a Mandel would between Rs. 5408—9910, a handling labour between Rs. 5772—9274 and Ancillary worker would get Rs. 5191—9085. It was pointed out that departmental workmen also get HRA at rate of 30%, 15%, 7.5% or 5% depending upon the location. It has been calculated in the application filed on 3-3-2004 that the minimum a handling worker under departmental system gets Rs. 210 per day in working month of Rs. 25 (*i.e.* then he remains HRA to extend. 5.1) for the year 2002. To this is added a further increment under incentive scheme. The minimum would go to Rs. 224 per days for handling worker employed directly as a handling labour. There is same substance in the contention of the workmen. They have placed pay slips of departmental labour of Sardar, Mondal, Handling Labour and Ancillary. A look at these steps confirm the fact that the departmental labour gets lots of benefits like dearness allowances, HRA etc. This is denied to the workman under Direct Payment System, Workers Management Committee System or No Work No Pay System. In fact the FCI does not deny that workman serving under the above systems are not paid same amount for the same work. It is its case that compared to departmental labour the systems under which these workmen work is are different chalk is from cheese. They are evaluated because of settlements with the various unions.

This Tribunal should not arbitrarily increase the burden on the FCI.

21. Having considered the entire matter on record and the respective arguments of the counsel for parties and further noting the change in piece rate from Rs. 2.05 to 2.19 per 100 bags this Tribunal is of the opinion that it would be proper to grant additional interim relief to the extent Rs. 50 per day per workmen instead of Rs. 100 per day per workman. Accordingly the FCI is directed to an additional sum of Rs. 50 per on all working days to each workmen under Direct Payment System, No Work No Pay System or Management Committee in addition what they are being paid every day. The interim relief so granted to workman shall be worked out on the basis of working days in a month. The relief is given from 1-12-2003 as all the applications for interim relief were filed in the month of November. All the applications are hereby allowed to content indicated above. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 2 अगस्त, 2004

का.आ. 2129.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खादी ग्रामोद्योग भवन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 118/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2004 को प्राप्त हुआ था।

[सं. एल-42012/121/93-आईआर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 2nd August, 2004

S.O. 2129.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 118/94) of the Central Government Industrial Tribunal/Labour Court, No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khadi Gramodyog Bhawan and their workman, which was received by the Central Government on 2-8-2004.

[No. L-42012/121/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE,
NEW DELHI**

PRESIDING OFFICER : R. N. RAI

ID No. 118/94

IN THE MATTER OF :—

KEDAR NATH AND OTHERS

VERSUS

KHADI GRAMODYOG BHAWAN

AWARD

The Ministry of Labour by its letter No. L-42012/121/93/IRD (DU) Central Government dt. 31-10-1994 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of Khadi Gramodyog Bhawan in denying promotion from ministerial cadre to Sh. Kedar Nath Pandey, Ram Prakash Kapoor, Raj Kumar and Govind Ram Gupta for the post of Incharge and Sr. incharge is justified? If not to what relief the workmen are entitled to?”

The claimants have filed statement of claim. In their statement of claim, they have stated that the workman Shri Kedar Nath Pandey was retired from the service of the employer and died. The workmen Shri Ram Prakash Kapoor, Raj Kumar Kundra and Govind Ram Gupta are working presently as U.D.C. in the scale of 1200-2040, joined the Khadi Gramodyog Bhawan in the year 1957, 1958 and 1957 as a Clerk, Helper/Packer and Typist respectively.

That the said workmen were promoted as U.D.C. on 2-5-1963, 1-10-1963 and 8-12-1963 respectively on promotion basis. They have passed High School Examination. The work and conduct of the workmen throughout have been very good and they enjoyed the confidence and trust of their superiors. As per standing order No. 1307 “In all cases of promotion the commission's employee should have completed at least three years service in the immediate lower post in the line of promotion, in order to make him eligible for consideration for promotion against the promotion quota vacancies.” Subject to there being no adverse remarks in their respective confidential reports.

However, the Manager, Khadi Gramodyog Bhawan, New Delhi did not promote the following UDCs who were eligible for promotion as per aforesaid standing order to the posts of Incharge and Senior Incharge when they filled two vacancies of Incharge in November 1992 during the pendency of conciliation proceedings disregarding the orders of conciliation officer :

- (a) Sh. R.P. Kapoor LDC/UDC 01-11-57/02-05-63
- (b) Sh. R.K. Kundra LDC/UDC 01-04-58/01-10-63
- (c) Sh. G.R. Gupta Typist/UDC 02-05-57/08-12-63

That while filling the aforesaid two vacancies the management also violated the principle policy underlying the standing order No. 738 under which all intermediary posts i.e., posts which are provided for to be filled up by promotion from lower cadre employees of the commission, are to be filled up by promotion as well as by direct recruitment on the basis of PSPD procedure as laid down in standing order No. 941 read with standing order No. 786.

That the management has been continuously following the practice of promoting the so called UDC employee to the post of Incharge and Senior Incharge as will be seen from the following few examples :

Sh. R.N. Sharma UDC Promoted as Incharge Ministerial

That the Union raised the matter relating to discrimination of the UDCs with the Assistant Labour Commissioner, New Delhi on 28-9-1992 but the conciliation proceedings initiated failed due to the non-cooperative and obdurate attitude of the management/ employer the employer also appointed Shri Ajay Kumar Ahluwalia as Incharge during the pendency of the conciliation

proceedings thereby clearly indicating its disregard and disrespect for the mediation service statutorily provided under the Industrial Disputes Act, 1947.

Upon the failure of the conciliation proceedings on 11-6-1993, the Central Government referred the above dispute to this Hon'ble Tribunal for adjudication under section 10 of Industrial Disputes Act.

That it may also be mentioned that the employer further appointed on 7-11-1992 on Shri Hukam Chand Rohilla to the post of Incharge in a most arbitrary manner and with malafide intention to frustrate the claim of the Union and the UDCs to the post of Incharge Ministerial. As such, the appointment of Shri Ahluwalia is totally illegal and unjustified and against the standing order Nos. 788 and 941 of the employer. It is also pertinent to mention that the post against which Shri Ahluwalia has been appointed is meant/reserved for UDCs only.

That the employer further appointed on 7-11-1992 Shri Hukam Chand Rohilla as Incharge without advertising the post and without holding any interview.

That the workmen reserve their rights to submit further legal grounds and file documents in this regard. The action of the employer in not promoting the workmen as UDCs is arbitrary, discriminatory, illegal against the provisions of the Industrial Disputes Act and violated Articles 14, 16 and 21 of the Constitution of India and is therefore, Liable to be set aside on the following amongst other :

GROUND

- A. Because the impugned action of the employer is violative of Articles 14, 16 and 21 of the Constitution of India, as also principle of natural justice, equity and good conscience.
- B. Because the impugned action of the employer constitutes unfair labour practice and is, therefore, illegal, being in violation of section 25 T of Industrial Disputes Act.
- C. Because the action of the employer is against the standing orders applicable to the employer of Khadi Gramodyog Bhawan.
- D. That the action of the employer in relaxing the conditions for selection in favour of one set of employees and denying the same relaxatin to the UDCs is clearly discriminatory, unjust and unfair.
- E. That the employer being public organization has a duty to be fair, just and equitable to all the workmen.
- F. Because the employer cannot pick and choose and abuse his authority to damage the career prospects of the workmen.
- G. Because the action of the employer is malafide, unfair and unjust on the fact of it.

PRAYER

That in view of the facts submitted herein above it is most respectfully prayed that this Hon'ble Tribunal may be pleased to :

1. Quash and set aside the appointments made to the posts of Incharge Ministerial wrongfully and illegally by the employer.
2. To direct the Management of Khadi Gramodyog Bhawan, New Delhi to pay back wages to Shri R.P. Kapoor, Govind Ram Gupta and Raj Kumar Kundra from the dates of their entitlement for promotion to the post of Incharge/Senior Incharge.
3. Direct the employer to promote Ram Rrakash Kapoor, Raj Kumar Kundra and Govind Ram Gupta for the post of Incharge Ministerial.
4. Give any other and/or further directions and orders as may be deemed fair and just on facts and in the circumstances of the case, and
5. Order payment of cost in favour of the workmen and against the employer.

The management has filed written statement. In the written statement, it has been stated that the present dispute is not an "Industrial Dispute" within the meaning of Section 2(k) of the Industrial Disputes Act as the matter has not been properly espoused. The claim is liable to be rejected on this ground alone.

That the persons whose selection to the post of Incharge is sought to be quashed have not been made parties to the present dispute by the claimant. They are necessary as well as proper parties. In fact any action adversely affecting the vested rights of the said persons in their absence would be liable to be set aside as it would be violative of the principles of natural justice. It is submitted that the dispute cannot be adjudicated in their absence and is liable to be answered against the claimants on this ground alone.

That the statement of claim has not been filed in accordance with the provisions of Rule 10B of the Industrial Disputes (Central) Rules, 1957, the reference order (from which this Hon'ble Court gets its jurisdiction) as well as the summons issued by this Hon'ble Court. It is not accompanied either by the documents, or by the list of witnesses. Even the documents mentioned in the statement of claim have not been annexed to the statement of claim. The statement of claim having not been filed in accordance with law is liable to be rejected outright.

That the claimants have not approached this Hon'ble Court with clean hands and are guilty of suppression of material facts and trying to mislead this Hon'ble Court. They are disentitled to any relief on this ground also.

Without prejudice to the above preliminary objections which are without prejudice to each other, parawise reply to the statement of claim on behalf of the management is as under :—

PARAWISE REPLY

1. Contents of para 1 being matters of record need no reply.
2. Contents of para 2 are admitted.
- 3 & 4. Contents of paras 3 and 4 are admitted.
5. In reply to para 5 it is submitted that the management has not been able to check up its records. It shall submit the correct position to this Hon'ble Tribunal at the stage of evidence. Till such time the averments made in the para under reply may not be taken to be admitted.
6. In reply to para 6 it is denied that the services of any of the claimants was exemplary or outstanding.
7. Contents of para 7 relate to the contents of a standing order, and, as such need no reply. The management shall rely on the terms of this and other standing order at the appropriate stage.
8. In reply to para 8 it is submitted that the claimants were working in the ministerial cadre whereas the vacancies were filled in the Technical Cadre. It is denied that any of the claimants were eligible for appointment in the technical cadre. The conciliation officer was neither competent to issue any direction in this regard, nor did he do so.
9. In reply to para 9 it is denied that the management violated the policy underlying standing order No. 738. The reliance on the standing orders under reference in the para under reply is misplaced.
10. In reply to para 10 it is admitted that the management has been promoting the UDCs to ministerial Incharge. However, they cannot be promoted as Incharge Technical. Similarly people in the technical cadre cannot be offered promotion in the ministerial cadre.
11. Contents of para 11 in so far as they are matters of record need no reply. It is denied that the management adopted a non-cooperative or obdurate attitude or that it showed disregard or disrespect to the mediation service. Shri Ajay Kumar Ahluwalia had been promoted in the technical cadre. His case (as well as that of Shri Hukam Chand) has already been referred to by the claimants in the earlier paras and their names have been brought in again to give a misleading impression of this Hon'ble Tribunal.

12. Contents of para 12 are matters of record and need no reply.
13. In reply to para 13 it is submitted that Shri Hukam Chand was appointed properly as per his eligibility and following the prescribed procedure. It is denied that there was anything malafide or arbitrary in this action or that this was done to frustrate the claim of the union or the UDCs. The appointments were legal, justified and proper in every respect. It is denied that the post to which Shri Ahluwalia was appointed was reserved for UDCs. He has been promoted to a technical post.
14. In reply to para 14 it is submitted that Shri Hukam Chand Rohilla was issued the appointment letter on 07-11-92. It is denied that Shri Rohilla was appointed without advertising the post or holding any interview.
15. In reply to para 15 it is submitted that the union cannot reserve such a blanket right.
16. In reply to para 16 it is denied that the management has done anything which is arbitrary, discriminatory, illegal, or which is violative of any provision of the Industrial Disputes Act or Article 14, 16 or 21 of the Constitution. It is denied that the management's action is liable to be set aside on any ground as alleged or at all.

REPLY TO GROUNDS

- A. Contents of ground A are wrong, misconceived and denied.
- B. In reply to ground B it is denied that the management has committed any unfair labour practice. In any case the question of the management having allegedly committed any unfair labour practice has not been referred to this Hon'ble Tribunal, and, as such does not come within the scope of the present reference.
- C. Contents of ground C are wrong, misconceived and denied.
- D. Contents of ground D are wrong, misconceived and denied. They are also vague, lacking in material particulars and have not been supported by the relevant factual averments. As such they cannot even be taken into consideration. The management however reserves the right to make further submission as and when proper particulars are supplied (and in case the union is permitted to place reliance on the same).
- E. In reply to ground E it is submitted that the management has acted justly, fairly and equitably.

- F. In reply to ground F it is denied that the management has adopted the pick and choose principle or that it has abused its authority or damaged or attempted to damage the career prospects of any workman.

Most of the paragraphs of the statement of claim have been denied in the written statement and it has been stated that Sh. H.C. Rohilla and Sh. Ajay Kumar Ahluwalia have been promoted to technical side.

The Union has filed rejoinder on behalf of the workmen. It has been stated that in appointing Sh. H. C. Rohilla and Sh. Ajay Kumar Ahluwalia, the management has violated its own rules and regulations. In order to delay the proceedings and justice, the management is knowingly and deliberately not filing the original copy of appointment letter of Sh. H. C. Rohilla and Sh. Ajay Kumar Ahluwalia.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that in standing order No. 788 there is provision for direct recruitment and by promotion. In Sub-para A(ii) of para 1 of this office Standing Order No. 738 dated 9-10-1968 on the above subject, it was laid down that the posts in the grade of UDCs, Assistant Superintendents, Superintendents, Assistant Directors and Dy. Directors and all other equivalent posts shall be filled by promotion as well as by direct recruitment, the ratio being 1 : 1. The commission has decided to effect following changes to the above orders in order to give greater opportunity to the employees already in the service of the Commission:—

- (a) The present policy decided by the Commission in regard to the filing up of the 50% of posts by promotion on seniority-cum-merit basis will stand.
- (b) Out of the remaining 50% of posts required to be filled by direct recruitment.
- (i) 25% of the posts to be filled would be by selection on merit from the existing staff in the commission. While the relaxation of age limit in such a case would be in accordance with the orders issued under Planning Order No. 782 dated 21-07-1969, there will be no relaxation in educational and other qualifications prescribed for such posts open to direct recruitment.
- (ii) The remaining 25% post will be filled by open competition where the departmental candidates would get relaxation in age-limit as per Standing Order No. 782 dated 21-07-1969. No relaxation would be available in respect of educational and other qualifications prescribed for the posts.

- (iii) While making selection for 25% posts reserved for departmental candidates, suitable tests wherever considered necessary by the Commission as in the case of direct recruits will be conducted.

Consequent on the above change, para 5 of Standing Order No. 738 dated 9-10-1968 should be substituted by the following :—

“5. If there is only one (residuary or otherwise) vacant post in a Directorate, the post will, in the first instance be filled in by promotion and should that post again fall vacant it will be filled up by selection from the commission's employees. In the event of the post becoming vacant for the third and fourth times, those vacancies will be filled in by promotion and direct recruitment respectively.”

It has been further submitted that the Standing Order No. 788 has been further clarified by Standing Order 941. According to Standing Order No. 941 the first vacancy to be filled by promotion, the second vacancy to be filled by open recruitment from among the Commission's employee only, the third vacancy is again to be filled by promotion and the fourth vacancy and so on are to be filled by open recruitment.

Both parties have filed Affidavit and from the Affidavit it transpires that all the 4 workmen have retired and Sh. Kedar Nath Pandey has expired. It has been admitted by MWI that Sh. Kedar Nath Pandey, Sh. Govind Ram Gupta is senior to Sh. Hukum Chand Rohilla. It has been already admitted that two posts of Incharge are vacant in the management and those posts are to be filled by promotion. As such MWI has admitted that the workmen are senior to Sh. Hukum Chand Rohilla and Sh. Ajay Kumar Ahluwalia. As such in view of the Standing Orders mentioned above the workmen should have been promoted to the post of Incharge Ministerial.

It was submitted by the management that these two persons were promoted as they belonged to technical side, an employee who belongs to technical side can be promoted to Assistant Incharge Technical and Senior Incharge Technical but the LDC and UDC can only be promoted to Incharge Ministerial. The management has not filed the appointment letters of the two employees who were promoted as Incharge Ministerial. They belong to LDC and UDC cadre and they have been promoted as Incharge Ministerial but an employee of technical side as salesman can not be promoted as Incharge Ministerial. As such the promotion of the above two employees has been made in violation of the Standing Orders as mentioned above. The workmen deserve to be promoted as Incharge Ministerial. This fact is clear from annexure W II dated 20-01-1994. The letter has been submitted for promotion of these 4 employees. There is no merit in the argument of the management.

It was submitted from the side of the management that the promoted employees have not been made party so the claim can not be entertained and the Tribunal has no jurisdiction.

The policy of promotion has been challenged. Hence, the promoted employees need not be made parties. Khadi Gramodyog is an industry, so this Court has got jurisdiction to decide the claim. The management has violated the Standing Orders mentioned above in promoting Sh. Hukum Chand Rohilla and Sh. Ajay Kumar Ahluwalia. The workmen under reference deserve to be promoted from the date when the posts fell vacant.

It was further argued by the union that in case due promotion had been given to the workman, they would have got the benefit. their retirement or death cannot deprive them of the benefit which have accrued during their tenure of service. This is the case of a deemed promotion. Khadi Gramodyog Bhavan has violated the Standing Orders promulgated by it.

The reference is replied thus :—

The action of the management of Khadi Gramodyog Bhawan in denying promotion from ministerial cadre to Sh. Kedar Nath Pandey, Ram Prakash Kapoor, Raj Kumar and Govind Ram Gupta for the post of Incxharge and Sr. Incharge is not justified. The workmen deserve to be promoted from the date when the posts fell vacant and they are to get the increased emoluments of the promoted posts from the date of their deemed promotion. The heirs of the expired workman will get the benefit on behalf of the deceased workman.

The award is given accordingly.

Dt 15-07-2004 R. N. RAI, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2130.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी 181/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2004 को प्राप्त हुआ था।

[सं. एल-12012/327/1997-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2130.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 181/98) of the Central Government Industrial Tribunal/Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in

relation to the management of State Bank of India and their workman, which was received by the Central Government on 2-8-2004.

[No. L-12012/327/1997-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NEW DELHI

PRESIDING OFFICER : Shri S. S. PAL

ID No. 181/1998

In the Matter of dispute between :—

Shri Karanvir Singh through
The Circle President,
State Bank of India,
Staff Association, A-50,
Multan Nagar, Delhi-110 056

....Workman

Versus

The Dy. General Manager,
State Bank of India, Delhi Zonal Office,
11 Sansad Marg,
New Delhi-110001

....Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/327/97-IR(B-I) dated 20-8-98 has referred the following Industrial Dispute to this Tribunal for adjudication :—

“Whether the action of the management of State Bank of India in not regularising the services of Shri Karanvir Singh, messenger cum water boy w.e.f. 1983 is just fair and legal, If not, what relief the concerned workman is entitled to?”

2. Brief facts of this case as culled from record are that the workman was recruited by the mgt. bank in January, 1983 at Nangli Sakrawati branch of the bank to work as messenger and water boy and he worked there till December, 1986 continuously and thereafter he was retrenched from service without due process of law and he was not given any notice or compensation etc. as required under the Act; service conditions were governed by provisions of Sastry Award modified by the Desai Award in view of the Bipartite settlement between the Union of Bank employees and the Management. It is further stated that as per circular of the bank dated 23-4-88 the temporary employees who have completed 240 days of service to be given chance for permanent appointment in the bank in view of the Bipartite Settlement and those temporary employees who completed 50 days of service. The workman was re-appointed in service in January, 1989 at the same branch on the existing vacancy

and worked there upto 30-11-97 and again his services were terminated without due process of law i.e. by giving notice and compensation. It is further alleged that the bank also entered into settlement with the union for absorption of temporary employees in permanent service. The workman fulfilled the eligibility criteria laid down by the bank for absorbing temporary employees in permanent service of the bank. He also submitted his application under prescribed form as required some of the employees having less service than the workman have been given permanent appointment in the bank while workman continued to work as temporary upto 30-11-97 and thereafter his services were terminated without due process of law. The action of termination of his services by the bank in the year 1986 as well as in 1997 was illegal, discriminatory and amounts to unfair labour practice and is in violation of the bipartite settlement and award in I.D. Act. Hence, he claimed regularisation w.e.f. 1983. He claims that the action of the bank in not regularising his services be declared unjust, unfair and illegal. He also claims continuity of service back wages and consequential benefits w.e.f. 1983 and compensation if any.

3. The management bank contested the case by filing written statement taking various preliminary objections that the dispute raised by the claimant is unwarranted in law that he was never appointed in the Bank and the Branch Manager had no authority to appoint any person in the bank. He did not obtain any approval from the competent authority to appoint any person in the bank and his appointment is thus void ab initio. His claim is not maintainable even under section 25F of the I.D. Act. Claimant is estopped from raising the industrial dispute by his own conduct. The case of the claimant does not amount to retrenchment. On merits again it is stated that appointment was not valid and hence question of termination does not arise. Existence of Bipartite Settlement mentioned in claim statement is not denied. It is, however, denied that the claimant fulfilled the eligibility criteria. He even failed to apply for absorption in the bank as stipulated. He is not entitled to be reinstated with full back wages.

4. In rejoinder the workman disputed the averments made in the written statement and reiterated the contents of his claim as correct.

5. Thereafter evidence was adduced by filing the affidavit and after closure of the evidence arguments were heard.

6. It is not disputed that the workman was recruited in January, 1983 at Nangli Sakrawati Branch of the management bank as Messenger-cum-Water boy worked there till December, 1986 as water boy and thereafter his services were terminated and further that he was again re-appointed in the service of the bank in January, 1989 in the said branch of the bank and worked there till 30-11-1997 when his services were terminated. However,

the bank claims that his appointment was not regular and valid as he was not appointed as per procedure laid down as per Recruitment Rules or process and that the Manager of the bank. Branch had no authority to appoint him or further he was appointed without approval from the competent authority and the bank has further claimed that he also failed to apply for permanent absorption or regularisation in view of Bipartite agreement carried at in January, 1991 as such he is not entitled to relief of regularisation and reinstatement claim in his position.

The perusal of the record shows that the workman was not employed or appointed to the post of water boy or messenger-cum-water boy through regular process nor he was given any appointment letter. However, he worked there as such for more than 240 days during the both periods from 1983—86 and 89 to 97. The respondent bank has admitted that he worked there on temporary basis or on daily wages and in view of the Bipartite Settlement dated 27-10-88 and 9-1-91 entered into between the employees Union and respondent bank. The workman was eligible to apply for regularisation but he failed to do so. As such he is not entitled to the relief claimed. The workman in his statement of claim has averred that he applied for his absorption or regularisation in view of the above said bipartite agreement but in his statement he did not depose so nor any suggestion was put to the witness of the management. MW1 that he so applied. MW1 Shri M. M. Sharma also stated in his evidence that he did not apply for absorption in the service or for regular appointment. Workman also failed to file copy of the application vide which he applied to the bank he ever asked the Bank to produce the record to show that he had moved such an application. The burden to prove that he applied for regularisation of his job was upon the workman. In my opinion he has failed to prove his claim that he so applied. Hence, in view of the above discussions the workman is not entitled to the reliefs claimed.

7. In view of the discussions made above I am of the view opinion that the claimant-applicant has failed to prove that he was appointed to the job of Messenger-cum-Water boy through a regular process or that he was entitled to be retained or regularised or that he moved an application for absorption and regularisation in the job in view of the Bipartite Settlement entered into in January, 1991. Therefore, the workman is not entitled to the relief claimed. Hence, the award is accordingly passed.

Dated 19-7-2004

S. S. BAL, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2131.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या आई डी

84/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2004 को प्राप्त हुआ था।

[सं. एल-12012/371/2000-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2131.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 84/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 2-8-2004.

[No. L-12012/371/2000-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT :

SHRIKANT SHUKLA, Presiding Officer

ID No. 84/2001

Ref. No. L-12012/371/2000/IR(B-I) dated 9-5-2001

BETWEEN :

Vijay Chandra Mishra
S/o Sri Deo Saran Misra,
46/22 A, Jawahar Lal Nehru Road,
Tagore Tower, Allahabad-211006

And

The Dy. General Manager,
State Bank of India,
Zonal Officer
Gorakhpur-273001

AWARD

The Government of India, Ministry of Labour vide their Order No. L-12012/371/2000-IR(B-I) dated 9-5-2001 referred the following dispute for adjudication to Presiding Officer, CGIT-cum-Labour Court, Lucknow:

“Whether the action of the management of State Bank of India in not giving the offer of permanent absorption in the Bank service even after putting his name in panel is justified? If not what relief the workman is entitled for?”

Worker has alleged that he was appointed as Messenger against clear vacancy at Nagar Bazar, Basti Branch of State Bank of India in the month of June 1980 and he did messengerial duties from June, 1980 to August 1980 and after that his services were arbitrarily terminated by Branch Manager, State Bank of India, Nagar Bazar, Basti without any rhyme or reason, notice or notice pay

and some one else was engaged thereafter in his place. The worker was interviewed by the opposite parties for regular and permanent absorption as Messenger in the Bank as back as in the month of November, 1991 but the opposite parties even after a lapse of about 10 years neither offered him regular employment as Messenger in the Bank nor did they advise the result of the interview and his fate has been sealed due to unended waiting which has resulted in his becoming overage. On 17-6-99 workman visited Zonal officers of State Bank of India, Varanasi to enquire about their fate. He was asked to meet Sri R. K. Srivastava, Chief Manager (Personnel). When they met Sri Srivastava and wanted to know as from when they will be absorbed in the Bank's services as Messenger, they were told that the interview result and panel list made out, has been finally cancelled years back and bank, will never give them the offer of appointment as regular messenger. The worker stated that as messenger his appointment was made in the Bank's branch of opposite party No. 6 against a clear vacancy and his services could not have been brought to an abrupt and immediately on completion of 89 days without notice or notice pay and to facilitate appointment of some one else in his place. It has therefore be prayed that the matter may kindly been taken up for adjudication and the workman's illegally terminated services as messenger be ordered to be restored back as full time messenger with continuity and full back wages alongwith interest from the date he was illegally removed from service in August 1980.

The opposite party has filed written statement and denied 89 days engagement of the workman. It has been stated that the workman has no statutory right for permanent absorption in the bank services as he worked only 72 days only in the year 1980 as casual worker on the fixed daily wages and his disengagement thereafter is not violative of any provisions of law. Accordingly, he cannot claim his permanent absorption in the bank service on the basis of any vested right as no right ever accrued to him from the allegations. It is further stated that from the allegations made in the claim statement it appears that the right which he is claiming is based on settlements arrived between the trade union and the bank management and even according those settlements applicant cannot get any relief in the facts and circumstances of the case. As such the settlements do not confer any right upon the applicant so as to absorb him permanently after the life of the wait list came to an end on 31-3-97 and was not extended after 1997 as per settlements. Therefore, the worker cannot claim any right or permanent absorption in the bank service. The bank management has further stated that depending upon the requirements of the bank, two types of non/permanent messenger were engaged at the branches of the bank. One category was of temporary engagement against the scaled wages and were called temporary employees and other to which category the

applicant belonged were engaged on fixed daily wages basis and were called casual worker/daily wagers. In terms of an agreement entered into between the bank and its workmen Association on 17-11-87, as modified by the agreement dated 16-7-88, it was agreed to give the eligible temporary employees a chance for consideration for permanent appointment in subordinate cadre. In terms of the said agreement it was also agreed that the casual worker or daily wagers to which category the applicant belonged would not be eligible for a chance of permanent absorption in subordinate cadres, vide clause II (ii) of the said agreement dated 17-11-1987. In pursuance of aforesaid agreements suitable candidates from aforesaid two categories, i.e. temporary category and casual worker's categories were interviewed separately in the years 1989 and 1991 respectively for absorption in bank's service against future vacancies. On the basis of and as a result of interview different panels so formulated were operative upto 31-3-97. Thus, the life of the panels or wait list expired on the aforesaid date. It was also settled that candidates found suitable for permanent appointment in the bank against the future vacancies in terms of aforesaid panels were allowed to be absorbed as such upto 31-3-97 subject to the condition that the names from 1989 panel would be released for permanent appointment. Thus panel of 1989 was of temporary employees. Out of 180 candidates empanelled in the year 1991 which included the applicant only 105 candidates belonged to the general category and remaining 75 candidates belonged to general category of sweepers, guards and reserved category, i.e. scheduled castes and scheduled tribes. Against the list of general messengers drawn up in the year 1991 only 47 candidates could be absorbed and the last person absorbed was placed at Sl. No. 47 while the applicant was at Sl. No. 69. Since no further vacancies had arisen during the tenure of the panel no candidates beyond serial No. 47 were absorbed in the Gorakhpur Zone as such. The bank, however, with a view to finding a permanent solution to the problem of temporary employees in the bank, the bank entered into a number of settlements with the All India Staff Federation as on 17-11-87, 16-7-88, 27-10-88, 9-1-91 and 30-7-96. As already stated these settlements provided a scheme for creation of messengerial positions, identification of vacancies at various branch/offices, eligibility criteria for considering the ex-temporary employees/daily wages for their absorption, testing their suitability for their permanent appointment in the bank and preparing panels for this purposes. These settlements also provided that the panels will be used for filling up vacancies arising upto 31-12-94 and the appointments against such vacancies would be over by 31-3-97 and the panels will expire thereafter. It was also provided that the remaining wait list candidates shall have no claim whatsoever towards the bank. It is well settled law as has been held by the Hon'ble Supreme Court Case that only such temporary

employees who have put in more than 240 days of temporary service in 12 calendar months immediately prior to last disengagement are entitled for protection under Section 25(F) I.D. Act. In the present case the concerned workman has put in only 72 days service from June, 1980 to August, 1980 on daily wages basis and not more than that. In fact, the non-engagement of the applicant after 72 days does not amount to retrenchment or termination and even it is termed as termination the applicant cannot have a legitimate claim for appointment or absorption and can also not claim that such termination is against law. The management of bank as further stated that similar controversy arose in Orissa and those enlisted persons preferred writ petitions and after hearing the parties at length the Hon'ble Orissa High Court dismissed the writ petitions on 15-5-98 against which SBPSs were filed in the Supreme Court but they were also dismissed on 16-7-98. Thus the controversy as raised in the present case stands finally resolved and the present I.D. Case is not maintainable and deserve to be rejected.

The workers has filed following documents:

1. Printed advertisement abstract of Dainik Jagran, Varanasi on 1-5-91 paper No. 7/11.
2. Letter of Branch Manager dated 11-8-80, 19-2-88 paper No. 3/13 and 3/14.
3. Letter of Personal Officer 2-11-91 paper No. 3/16.
4. Tormed letter the date month and year which are not eligible paper No. 4/3.

Opposite party has filed photo stat copies of order of SLP dated 16-7-1988 passed in SLP 003082/99 Natabar Das Vs State bank of India.

2. Photo copy of judgement of the Hon'ble High Court Orissa, Cuttack UJC 2787/97 Abhimanu Mandal Vs State Bank of India and others paper No. 6/12.
3. Settlement dated 16-7-98 between State Bank of India and All India State Bank of India Staff Federation paper No. 6/35.

The worker has filed the affidavit. The worker has been cross examined on 28-5-2003.

Asstt. General Manager of State Bank of India has filed the affidavit paper No. A2-37 but worker has not cross examined him. Worker has also not turned up on the date of argument.

Heard Sri Puneet Chandra representative of the opposite party along and perused the evidence on record.

Following facts are admitted by the worker in his cross examination:

1. Worker has admitted that he has filed his claim on the basis of the settlement arrived at by the union in the year 1988. However, he has stated that he does not know about that agreement.
2. This fact is admitted that he was getting the payment as daily wager.
3. This is also admitted that whatever payment he use to receive he never complaint against that.
4. It is also admitted that he was interviewed under the terms of the settlement between employer and the union.
5. He has also admitted that the final list was prepared after interview, his name finds place at serial number 69 out of which some persons were regularly appointed.
6. He denies that he was ever interviewed.

From the documents of the workman himself which is paper No. 3/14 it is clear that he worked for 72 days during June 1980 to August 1980.

The worker is his statement of claim stated at page 4 line 5 is as under :

“After completion of 72 days duty the applicants services were arbitrarily terminated by Opposite Party No. 6 without any rhyme or reason, notice or notice pay and some one else was engaged thereafter in his place.

Sri R.N. Agarwal, Asstt. General Manager has filed a affidavit A2-27 in para 4 that the worker worked only for 72 days.

In the circumstances above it is proved that the worker has not worked for 89 days as he has also tried to alleged, but he has put only 72 days of work in the bank with the opposite party No. 6 on daily wage basis.

The worker is not entitled to the absorption under I.D. Act, 1947. As a result the agreement dated 27-10-88 between State Bank of India Vs State Bank of India Staff Federation, he is not entitled to the absorption as he has put in working as daily wage basis. The worker has filed the photo copy of advertisement published in Danik Jagarn, Varanasi in the same advertisement it is notified that the candidates will be eligible for consideration for appointment to the vacancies upto 1996 and the wait list which shall valid upto 1996. In para 12 and 13 of the statement of claim the worker has recited the said advertisement and the agreement. In para 13 of the statement of claim the worker has stated that he was interviewed by the opposite party in the month of Nov. 1991. He has also admitted that his name finds at serial number 69 of that list.

It is admitted fact by the management that the interview of daily wager was held in 1991 and a panel

was proposed. The pannel has life upto 31-3-97. Thus, the life of the panel of the wait list expired on the aforesaid date. The management has proved by its affidavit that category in which the workman belongs 47 candidates could be absorbed and the last person absorbed placed at Sl. No. 47 while the worker was at Sl. No. 69. Since no further vacancy has arisen during the tenure of panel no candidates beyond Sl. No. 47 were absorbed in Gorakhpur Zone as such.

If the advertisement is taken into consideration then wait list was valid upto 1996 therefore the worker cannot claim that he deserves to be considered for appointment thereafter.

The management of bank has filed the settlement of 16th July, 1988 between State Bank of India Staff Federation paper No. 6/35—6/41. In para six of the affidavit of the management it has been written “A similar controversy arose in Orissa and those enlisted persons preferred writ petitions and after hearing the parties at length the Hon'ble Orissa High Court dismissed the writ petitions on 15-5-98 against which SLPs were filed in Supreme Court but they were also dismissed on 16-7-98. Thus the controversy as raised in the present case stands finally resolved and the present I.D. is not maintainable and deserves to be rejected on this preliminary objection at this stage so that the money of the parties and time of this Hon'ble Tribunal and parties may not be wasted and saved.

The worker has not completed 240 days of the working before his dis-engagement. The worker was daily wager who has not put 240 days of service in 12 calendar months immediately prior to list dis-engagement therefore he is not entitled protection under Section 25F of the I.D. Act, 1947. In the present case the concerned workman has put only 72 days service from June 1980 to August 1980 as daily wager and not more than that. Therefore it cannot be said that his termination is retrenchment within the meaning of I.D. Act.

On the worker's own showing the wait list was valid upto 1996 and thereafter he cannot claim to be appointed permanently or absorbed in the bank services ignoring those who are listed at 48 to 68. The worker is therefore not entitled to permanent absorption also therefore I am of considered opinion that the action of the State Bank of India in not giving offer of permanent absorption in the bank services even after putting his name in the panel is justified. The answer of the reference is therefore is affirmative. Accordingly the workman is not entitled to any relief.

Lucknow
26-7-2004.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2132.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वर्धन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या आई. डी. 134/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2004 को प्राप्त हुआ था।

[सं० एल-41011/15/2002-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2132.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 134/2002) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 2-8-2004.

[No. L-41011/15/2002-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR—COURT, LUCKNOW

I. D. No. 134/2002

Ref. No. L-41011/15/2002-IR (B-I)

dt. 18-7-02

BETWEEN:

Dina Nath Tewari,
Divisional Organization Secretary,
Uttar Railway Karmchari Union,
119/74, Qr. No. 61, Naseemabad,
Kanpur (U.P.)

AND

The Divisional Railway Manager,
Northern Railway,
Allahabad Mandal,
Allahabad (U.P.)-211006

AWARD

The Government of India, Ministry of Labour *vide* its Order No. L-41011/15/02-IR (B-I) dated 18-7-2002 referred

the following dispute for adjudication to Presiding Officer, CGIT-cum-Labour Court, Lucknow :

“क्या मंडल रेल प्रबन्धक, उत्तर रेलवे, इलाहाबाद द्वारा कर्मकार श्री हरि प्रसाद आत्मज श्री बंशराज पाण्डेय, श्री अरुण कुमार आत्मज श्री किशन सिंह एवं श्री विनोद कुमार आत्मज श्याम सुन्दर, को दि० 1-3-97 से सेवा समाप्त किया जाना न्यायोचित है ? यदि नहीं तो सम्बन्धित कर्मकार किस अनुतोष का हकदार है ?”

Uttar Railway Karmchari Union's (which will hereinafter called as union) case in brief is that workers Sarva Sri Hari Prasad, Arun Kumar and Vinod Kumar have been its members. These workers will in hereinafter called as worker No. 1, 2 and 3 respectively.

It has been alleged by the union that above workers have been waterman casual labour for more than 15 years. These workers got the temporarily satus prior to 1991 but they have not been regularised as yet, although they ought to have been regularised after stome time of their appointment. Railway Board *vide* its letter No. E/NG/11/96/CL/61 dated 11-12-96 directed that there are 56,000 workers which are to adjusted in regular service which are likely to fall vacant till 1997-98. List of such workers be prepared in accordance with working days. The worker in question have not been taken into services till 1-3-97. The services of the workers were terminated since 1-3-97 which illegal and unjustified. It is clear violation of Section 25-F, G & H of I.D. Act. It has therefore been prayed by the union that court should hold that the termination is illegal and also requested the worker be reinstated with continuity of service and back wages.

Divisional Personal Officer, North Central Railway, Allahabad has filed written statement on behalf of the employer. The employer has not admitted the claim of the worker and has alleged that the worker Hari Prasad has worked only for 663 days in 12 years, Arun Kumar has worked for 892 days in 6 years and similarly Vinod Kumar worked only for 665 days in 6 years. It is also alleged that none of the workers worked from August 15, 1991, afterwards.

The Divisional Personal Officer has also alleged that those senior to these worker in accordance with the working days were absorbed and these workers will also be considered whenever there term occurs. With regard to circular letter of Railway Board dated 11-12-1996, it has been alleged that these workers were not on employment on 30-1-1996 hence the said circular is not applicable to them.

About the nature of job of these workers the employer has stated that they belong to hot weather staff have been engaged in hot weather only. From 1991 the engagement of hot weather staff has been stopped.

Union has filed photo copy of the casual labour service record of workman 1 and 2 and certificate of engagement of workman No. 3 paper No. C-17 to C-17/9. Unit has also filed photo copy of casual labour born of life casual register paper No. 17/10 and 17/11.

Union has also filed photo copy of the following letter :

1. Northern Railway, HQ, Baroda House letter No. 807-E/240/2/R/Selection Committee dated 13-12-82 with enclosure paper No. 17/12 and 17/13.
2. Northern Railway, DRM office letter 220E/Bharti/hot weather 11/86 dated 10-4-80 for providing regular scale to the hot weather waterman who have completed 120 days working.
3. Government of India Letter No. E/(NG) II-83/CL/III dated 10-12-85 addressed to General Manager, Northeast Frontier Railway, Gauhati regarding grant of regular pay to casual labour engaged as waterman during summer season.
4. Letter No. F/57 (OX) (C) dated 22-8-85 addressed to Secretary, Railway Board.

Unit has also filed photo copy of Railway Board's manual.

Union has examined Hari Prasad and Arun Kumar whereas on behalf of the employer only Sri Jata Shankar Tripathi, Welfare Inspector has been examined.

Heard arguments of the representatives and perused the records.

The union has filed photo copy of Indian Railway Establishment Manual Volume II in which the definition of casual labour is given, this reads as under : "Casual Labour refers to labour whose employment is intermittent, sporadic or extends over short periods or continued from one work to another. Labour of this kind is normally recruited from the nearest available source. They are not ordinarily liable to transfer. The conditions applicable to permanent and temporary staff do not apply to casual labour.

Casual labour are not entitled for any privilege other than those statutory admissible under the various Acts such as Minimum Wages Act, Workman's compensation Act etc. are those specifically sanctioned by the Railway Board from time to time.

In order to provide documentary proof of service a casual labour required to be given a card. A person wanting to be appointed as casual labour is required to supply to the administration two pass port size copies of his photograph at the time of his engagement as casual labour. The photograph duly attested by the competent authority should be pasted on his service card another copy is the

casual labour register. Casual labour should be required to deposit Re. 1 towards the cost of service card, in which besides his particulars like date of engagement, date of termination etc. has to be written. This service card in the form of a booklet.

Casual labour treated as temporarily are entitled to the benefits admissible to the temporarily railway servant as laid down in Chapter 23 of the Manual. The rights and privileges admissible to such labour also include the benefit of D and A Rules. However, their service prior to absorption in temporary/permanent/regular cadre after the required selection/screening will not count for the purpose of seniority and the date of his regular appointment after screening/selection shall determine their seniority viz-a-viz other regular/temporary employees.

Such casual labour who acquired temporary status, will not, however, be brought on to the permanent or regular establishment or treated as in regular employment on Railways until and unless they are selected through regular Selection Board for Group D posts in the manner laid down from time to time. The manual further laid down that no temporary post shall be created to accommodate such casual labours, who acquired temporary status for confirmants of attendance benefits like regular scale for pay, increment etc. Casual labour who have acquired temporary status and have put in 3 years continuous service should be treated at par with temporary railway servant for purpose of festival advance/flood advance on the same conditions as are applicable to temporary railway servants for grant of such advance provided they furnish two sureties from permanent railway employees. The casual labour who attain temporary status and has been paid regular scale of pay, when re-engaged, after having discharged earlier on completion of work or for non-availability of further productive work may be started on the pay last drawn by him.

Absorption of a casual labour in regular Group D employment may be considered in accordance with instructions issued by the Railway Board from time to time. Such absorption, is, however not automatic but is subject, *inter-alia*, to availability of vacancies and suitability and eligibility of individual casual labour and rules regarding seniority unit method of absorption etc. decided by the Railway Administration.

Casual workman for summer season shall be eligible for temporary status or completion of 120 days of continuous employment.

For this purpose, various spells of engagement as casual waterman may be aggregated provided the gap between two spells of employment has been caused due to season being over and/or there being no work for them in such establishment provided further that if a person engaged in the previous years is given an opportunity to

work in the same hot weather establishment in the subsequent year but he fails to avail of that opportunity, he will have to start afresh in the event of his being engaged again in further seasons and these provisions are effective from summer season of 1985.

From the documents filed by the union the hot weather season waterman are entitled to the regular pay scale if they have completed 120 days work as per the notification of Divisional Railway Manager, Allahabad letter dated 10-4-1999.

Union has filed photo copy of the record of service of Hari Prasad which go to show his service as following :

Sl. No.	Year	No. of days
1.	1984	25
2.	1985	79
3.	1986	113
4.	1987	09
5.	1988	104
6.	1989	102
7.	1990	110
8.	1991	107

Union has also filed the record of service as casual labour of Sri Arun Kumar which go to show that has rendered his services as under :

Sl. No.	Year	No. of days
1.	1985	38
2.	1986	106
3.	1987	122
4.	1988	104
5.	1989	102
6.	1990	113
7.	1991	107

It is shown that Arun Kumar also worked last on 14-8-1991.

Union has however not filed the service record of another worker Vinod Kumar and in its place a unsigned statement have been submitted on behalf of the worker that goes to show that he has last worked on 14-8-1991.

Hari Prasad and Arun Kumar had tried to prove that they have worked till 1997 but there is no independent document to this effect. However, Hari Prasad has further state that he worked till Feb. 1991 as waterman. Similarly Arun Kumar also stated that he worked till 1991 as waterman and thereafter he worked as casual labour but there is no documentary prove in support of this. On the other hand Sri Jata Shanker Tripathi, Welfare Inspector of the office of DRM, Allahabad has stated that Hari Prasad worked till 14-8-1991 as waterman. He is also stated that since 1992 as per the orders of the Railway Board the arrangement of waterman has been dispensed with since the modern technology such as cooler etc. has been introduced. Similar is the case of other workers such as Vinood Kumar and Arun Kumar. During the year 1992 hot weather season the workers were not engaged.

Shri Jata Shanker Tripathi has given details of work of all the 3 workers.

Shri Tripathi has also stated on both that according to the Board letter dt. 11-12-1996 those casual labours which were employed till 30-4-1996 were to be regularised in preference.

I have gone through the letter of Railway Board placed as 17/13 on the record the first para which reads as under :

“Attention is invited to instructions contained in Board’s letter of even number dated 4-9-1996 which stipulate that all of about 56000 Casual Labours on roll as on 30-4-1996 must be absorbed against vacancies within the year 1997-1998.”

Certain procedure has been modified for absorption such as date of birth, date of initial appointment and date of attaining temporary status. This document has been filed by the union is incomplete. However, this is made out that those who were on roll on 30-4-1996 were to be considered for absorption. According to the evidence on record none of these workers for whom the union has espoused the case were in service on 30-4-1996. The documentary evidence is against the interest of these workers. These workmen were not terminated on 1-3-1997 which union has tried to alleged. On the contrary it is proved that these workers were not engaged after 15th August, 1991. These workers specifically worked till 14-8-1991 only. Issue referred is whether the action of DRM, Northern Railway, Allahabad terminating the services of the workers on 1-3-1997 is legal. The workers were not in employment on or after 15-8-1992 onwards and as such question of their termination on 1-3-1997 does not arise. The issue is accordingly decided against the workman in favour of the management. Workmen are therefore not entitled to any relief.

Lucknow

28-7-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2133.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं० II, नई दिल्ली के पंचाट (संदर्भ संख्या आई. डी. 104/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-08-2004 को प्राप्त हुआ था।

[सं० एल-12012/259/1995-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2133.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 104/96) of the Central Government Industrial Tribunal/Labour Court II, New Delhi now as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 02-08-2004.

[No. L-12012/259/95-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II,
NEW DELHI**

PRESIDING OFFICER : R. N. RAI

I.D. No. 104/96

In the matter of :

G. D. Sharma

Versus

State Bank of India

AWARD

The Ministry of Labour by its letter No. L-12012/259/95/IR (B-I) Central Government Dt. 04-12-1996 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of State Bank of India in dismissing the services of Shri G.D. Sharma w.e.f. 05-04-1990 is legal and justified? If not, to what relief the workman is entitled?”

The claimant has filed statement of claim. In the statement of claim, he has stated that the workman was working as Head Clerk at Ghaziabad Branch of the Bank. The service conditions of the employees in the Bank are governed by Sastry Award as modified by Desai Award and subsequent Bipartite Settlements and have statutory force.

That the Regional authorities out of some ill-will transferred the plaintiff from Ghaziabad Branch to Shamli Branch vide letter No. BM 32/29 dated 27-05-1989 which was later changed to Modi Nagar Branch vide letter No. MRT/R-II/751 dated 04-09-1989, on undisclosed administrative grounds. The transfer being punitive, the reasons for the same were not disclosed in either of the orders. Later, the claimant was suspended by the Bank vide Letter No. MRT/DAS/R-II/PCF/123 dated 05-04-1990 and subsequently charge sheeted vide letter No. MRT/DAS/R-II/PCF/127 dated 6-4-1990. An enquiry was conducted against him. He participated in the enquiry. Several witnesses from the side of the department were examined and after perusal of the statements of the witnesses, the enquiry officer gave the finding that none of the charges have been proved against the employee. After getting the report of the enquiry officer, the Disciplinary Authority differed from the views of the Enquiry Officer and gave a different finding holding the accused guilty of the charges levelled against him. The charges were served on him on account of serious irregularities committed by the workman during his stay at Ghaziabad Branch. The charges are as follows :

- (i) Two allegedly fictitious accounts No. 34099 and 35760 were opened by forging the signatures of Shri R. Prasad and Shri Manohar Kakar.
- (ii) Certain cheques were issued on both the accounts, payments obtained.
- (iii) Certain vouchers were prepared for credit of these accounts.
- (iv) Two cheques purported to have been signed by Shri J. S. Malhotra holder of Account No. SIB 382 were allegedly filled by the plaintiff.

Opening of the Account :

- (i) At each Branch one of the officers is authorized to sanction opening of the New Accounts.
- (ii) The applicant customer desirous of opening an account is required to fill an account opening form.
- (iii) The authorized official interviews the customer for knowing his identity, credibility and the purpose for opening the account and on being satisfied the official authorizes the opening of the account by putting an initial on the account opening form.

- (iv) The customer is required to sign on the account opening form in the presence of the authorized/passing officer, who verifies the signatures by putting his signatures alongside the customers signatures on the form itself.
- (v) The account opening form is then sent to the ledger keeper who opens the account in the ledger and allots an account number.
- (vi) Thereafter, the initial deposit is deposited by the customer and is received by the "Receiving Cashier".
- (vii) A passbook and cheque book if requested, is issued to the customer. The passbook is required to be signed by the authorized/passing officer.
- (viii) A letter of thanks is sent at the residential addresses of the customer and the introducer.

The management has filed written statement. In the written statement, it has been stated that the employee concerned has committed grave irregularities and the Disciplinary Authority after minutely examining the report submitted by the Enquiry Officer came to his own conclusion that the petitioner was guilty and the tentative decision was conveyed to him and he was given a personal hearing. Thereafter punishment was awarded to him for his grave misconduct and he was dismissed from the bank's services.

The claimant filed an appeal before the Appellate Authority but the Appellate Authority after giving cogent reasons upheld the findings of the Disciplinary Authority. The Disciplinary Authority considered the entire matter. The charge sheet, the reply thereof and all the evidence of the enquiry proceedings, the findings of the enquiry officer and thereafter formed an independent view that the petitioner was guilty of grave misconduct and so he proposed the punishment of dismissal and after giving a patient hearing to the claimant, the Disciplinary Authority passed the order of dismissal and that was confirmed by the Appellate Authority.

The claimant has filed rejoinder. In the rejoinder, it has been stated that there was no evidence in the enquiry against the workman. All the papers said to be forged were not found in his handwriting by the handwriting experts and the departmental witnesses have deposed that he has no say in getting the cheque book of Shri R. Prasad and Shri Manohar Kakkar and he did not withdraw any money from any account as mentioned in the charge sheet. He was quite innocent and the findings of the enquiry officer are based on substantial evidence and cogent reasons. All the paragraphs of the written statement have been denied by the claimant.

Heard arguments from both the sides and perused the papers on the record.

It is pertinent to mention that both the parties have given evidence in support of the enquiry proceedings. Hence, fresh evidence is not to be led and the preliminary issue regarding the fairness of the enquiry was not pressed. That is why the parties gave evidence in the Tribunal in support of the enquiry. As such, there is no preliminary issue to be decided and the findings is to be given based on the evidence adduced by the parties in the court as well as the evidence adduced during the course of enquiry.

It was submitted from the side of the workman that all the charges are fraudulent and he is not concerned with any of the charges. He did not open fictitious savings bank account No. 34099 in the name of R. Prasad and he did not obtain payment of cheque No. 800201 of Rs. 1800 and Rs. 8000/- from savings bank account No. 34099 and he did not put his signatures on the cheque book. He did not open the savings bank account in the name of Manohar Kakkar and he did not prepare a cash deposit voucher for Rs. 20/- in the account of Shri Manohar Kakkar. Account No. 35760. He did not prepare credit voucher for Rs. 1400/- in the name of Shri Manohar Kakkar in order to misappropriate it. He did not obtain payment of cheque No. 800203 of SBI account No. 35760 for Rs. 5000/- after forging the signatures of Shri Manohar Kakkar. At no point of time, he forged the signatures of Shri R. Prasad and Manohar Kakkar and he withdrew no amount from their account as has been alleged in the charge sheet. He did not prepare a credit voucher for Rs. 18900/- for crediting to the account No. 34099 and he did not fill up cheque No. 799824 and 799822 on 08-09-1986 by forging the signature of Shri J. S. Malhotra, the holder of the account No. SIB 382. It is submitted from the side of the workman that he did not open the three fictitious accounts. He did not get the cheques encashed forging the signature of Shri R. Prasad, Manohar Kakkar, Shri J. S. Malhotra, Shri Deepak Kashyap has given handwriting report and in the handwriting report, he has specifically observed that the disputed writing of Q-Series have not been written by the writer of the admitted writings of A-Series. i.e. the disputed writings were not in the handwriting of the workman.

Another handwriting expert Shri Raj Singh Verma has observed that the disputed writings are similar to the admitted writings. He has not observed that the disputed writings and admitted writings are of the same person and his expert report is not reliable as he has not drawn any similarity or distinction between both the writings. Another writings expert was also examined. He has categorically admitted that A-Series and Q-Series are not in the handwriting of one and the same person.

It was submitted from the side of the management that Disciplinary Authority has every right to differ from findings of the enquiry officer but his finding should be that of a prudent man. The substantial question is whether there is any evidence on the record

in the proceedings of the enquiry, or in the proceedings of the court to hold different view by the disciplinary authority.

I have gone through the report of the disciplinary authority. Disciplinary Authority has stated that in forgery cases reliable evidence is not available for want of technical professional competence and the opinion of the handwriting experts cannot be relied upon. He has also stated that during the enquiry proceeding, several witnesses have taken a defensive view so it should not be construed that the fraud was not committed and the EPA stands absolved of the charges. Only circumstantial evidence is available in the cases of fraud. Shri Lokesh Kumar is a Telex Operator so his report regarding the handwriting questioned and admitted cannot be relied upon. He has given opinion only on the grounds of professional competence. These were the observations of the Disciplinary Authority regarding taking the different view from the enquiry officer's report. Shri Raj Singh has also given his opinion. Shri Lokesh Kumar and Shri Deepak Sharma, the handwriting experts have observed that the writers of the A-Series and Q-Series are not the same person. Apart from the writing expert report, several witnesses have been examined during enquiry. These witnesses are of the same department and of the same branch and they have categorically deposed that the signature on the cheques were taken by them of Shri R. Prasad and Shri Manohar Kakkar and Shri J. S. Malhotra and payment to them was given after obtaining their signatures. Shri R. Prasad and Shri Manohar Kakkar and Shri J. S. Malhotra have no complaint that any money was withdrawn from their account unauthorisedly. It means that these three persons have opened the account and they have operated their own account and they have withdrew the money by putting their signatures and they have opened their own account. They have no grievances. Since the operators of the account have no grievance, so by no stretch of imagination, it can be said that there were any withdrawal from their account by the EPA. Besides these there account holders, the employees who issued the cheque, those who passed the cheque, and those who made payments have appeared in the enquiry and they have categorically stated that the cheque books were issued to the account holders and the cheques were passed in the presence of the account holders and the money was paid to the account holders after obtaining their signature. So it is crystal clear and quite explicit from the statement of the departmental witnesses who operated the account and who opened the accounts that the accounts were not opened in the name of fictitious persons and the cheques were not drawn by forging the

signatures of those account holders. They have opened the accounts and they have got cheque book issued.

From the perusal of the findings of the enquiry officer, it is quite vivid that he has based his findings on the statements and evidences of departmental witnesses and he has given his findings corroborated by departmental witnesses. Shri Deepak Sharma has admitted during the enquiry proceedings that he did not get the signature of R. Prasad. DW/1 Miss Rita Aggarwal has deposed during the enquiry that self was written over the cheque so she took the signature of the person at the back of the cheque and no staff members presented the cheque. So it is quite clear that the cheque was presented by the account holders and the EPA was not concerned with the payment of that cheque and Miss Rita took the signature of the cheque holder. DW/2 has given the opinion that he has not made the payment of the disputed cheque No. 800201 to any member of the staff but he made payment to Shri R. Prasad and he took the signature of Shri R. Prasad before him. Similarly, DW/2 has further stated that he made payment of the cheque to Shri Jaipal Singh and got his signature of the said account holder before him. He did not make any payment to any member of the staff. Similarly DW/5 has admitted that Shri Manohar Kakkar put his signature over the cheque and thereafter payment was made to him. Shri S. S. Chand has stated that SBI account No. 35700 was opened by the account holder and it was not opened by any member of the staff and Smt. Dhawan has further stated that Shri A. K. Shah himself came with cheque No. 800204 and there was none else and he has put his signature over the cheque. That the payment of the cheque amounting to Rs. 5,000 was made to Shri R. Prasad and his signature was taken. Similarly, regarding the payment of all the cheques, the witnesses who were concerned with the payment of the cheques and passing of the cheques have stated that Shri R. Prasad and Shri Manohar Kakkar and Shri J. D. Shah went before them and they issued the cheque after getting their signatures and they made payments after taking their signatures on the back of the cheque and the accounts were opened by them. DW/4 has also given a similar statement. Shri Girish Chander has confirmed that he obtained the signature of Shri F. Chand in his presence. It is not necessary here to extract evidence of all the witnesses who were concerned with the opening of the account and issuing and passing the cheque and making payments but I have gone very deeply through the enquiry proceedings and findings of the enquiry officer. The enquiry officer has given his finding on every charge and thereafter he has held that charges are not proved. He has given his opinion regarding all the 12 charges based on the oral evidence of the responsible persons who are concerned

with the operation and the opening of the account. As such, there is not even an iota of evidence during the enquiry proceeding and in the Tribunal as well. It is clear that no payment was taken by the EPA and no account was opened by him. As such, findings of the Disciplinary Authority are absolutely imaginary based on no evidence and no cogent reason has been given by the Disciplinary Authority and the Appellate Authority. They have given their findings with the malafide intention to punish an innocent employee.

My attention was drawn from the side of the management to 1993 (67) FLR 11, 1987 (1) SLR 747, 1990 (5) SLR 447. I have gone through all the citations and many others cited by the management but from perusal of all the citations, it transpires that the Disciplinary Authority may differ from the findings of the enquiry officer but he must give his findings on each and every charge supported by cogent reasons. The Disciplinary Authority has not given parawise findings whereas the catena of decisions have been cited from the side of the workman and all the decisions are of the Hon'ble High Court and of the Apex Court and it has been maintained that in case Disciplinary Authority differs from the findings of the enquiry officer, he should give his findings on every charge supported by evidence but the findings of the Disciplinary Authority are not based on any evidence. They are rather based on conjectures and surmises and not on material evidence on the record during the enquiry proceedings or in the Tribunal. Whereas oral evidence has been recorded during the enquiry proceedings as well as in the Court proceedings, the Disciplinary Authority has not mentioned a single piece of oral evidence. He has given a general finding based on no evidence and that is not the finding in the eyes of law. As such, the findings of the enquiry officer are based on cogent reasons and evidence of a very probative value and the findings of the enquiry officer cannot be set aside by whimsical findings of the Disciplinary Authority and the Appellate Authority. These two authorities appear to have malafide intention and their object was to victimize the workman applicant when there is no evidence to hold the same view. As such findings of the Disciplinary Authority and that of the Appellate Authority are liable to be set aside and the findings of the enquiry officer deserve to be accepted as they are reliable and supported by evidence and a very high probative value. The Disciplinary Authority and the Appellate Authority have given findings being prejudiced against the workman applicant and their findings displayed their malafide intentions to victimize the workman applicant and are not tenable by any stretch of imagination.

I am of the considered view that the findings of the enquiry officer are quite perfect and the findings of the Disciplinary Authority and the Appellate Authority are misleading and imaginary and misconceived as well. So they cannot be sustained. The enquiry officer has exonerated the workman applicant from all the charges and his findings are to be accepted.

The workman applicant deserves to be reinstated from 5-4-1990 with full back wages. Bank being the statutory body may recover 50% of the damages from the Disciplinary Authority and Appellate Authority as they have done a wrong and caused a heavy loss to the bank.

The reference is replied thus :—

The action of the management of State Bank of India in dismissing the service of Shri G. D. Sharma w.e.f. 05-04-1990 is neither legal nor justified. The workman deserves to be reinstated from 5-4-1990 with full back wages and the management is directed to reinstate him within one month from the date of publication of the award otherwise an interest of 6% per annum will run on the amount of the back wages.

The award is given accordingly

Dt. 21-07-2004.

R. N. RAI, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2134.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या आई. डी. 22/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-08-2004 को प्राप्त हुआ था।

[सं० एल-41012/61/2003-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No.22/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the Employers in relation to the management of Eastern Railway and their workman,

which was received by the Central Government on 2-08-2004.

[No. L-41012/61/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
LUCKNOW**

PRESENT:

SHRIKANT SHUKLA, Presiding officer

L.D. No : 22/2004

Ref. No. L-41012/61/2003-IR (B-I)

dt. 6-2-2004

BETWEEN:

Shri Vishva Nath, S/o Shri Lodhe
Village-Purelala,
Post-Chandwatpur
Distt. Gonda (U.P.)

AND

1. The General Manager
Eastern Railway,
Gorakhpur (U.P.) 273001.
2. The Railway Road Inspector (Const.)
Eastern Railway, Gonda (U.P.)

AWARD

The Government of India, Ministry of Labour vide their order No. L-41012/61/2003-IR (B-I) dated 6-2-2004 referred the following issue to the Presiding Officer, Central Government Industrial Tribunal cum Labour Court, Lucknow for adjudication.

“क्या रेल पथ निरीक्षक (निर्माण), पूर्वोत्तर रेलवे, गोण्डा द्वारा कर्मकार श्री विश्वनाथ आत्मज श्री लोधे की दिनांक 15-3-82 से सेवा समाप्त किया जाना न्यायोचित है? यदि नहीं तो सम्बन्धित कर्मकार किस अनुतोष का हकदार है?”

The reference order was enclosed to Sh. Vishwanath, the workman and the employers, Railway Road Inspector (Const.) and the General Manager, Eastern Railway. The reference order was received in Central Government Industrial Tribunal cum Labour

Court, Lucknow on 22-3-2004 but the workman did not file any statement of claim till 21-4-2004. Thereafter, the Presiding Officer ordered the issuance of notice to the workman to file statement of claim as per direction of the Government. Registered notice was sent to the workman (No. 2980 dated 23-7-2004). Registered article returned unserved with the noted purported to be endorsed by the postal department that ‘receiver is dead therefore, the registered article is send back to the sender.’ Another notice was sent to the employers and Shri R. D. Agarwal has appeared and filed his authority letter paper No. A-5.

Shri R. D. Agarwal has not filed the written statement and has stated that no statement of claim has been filed on behalf of the workman to the effect that the order of termination was illegal. It was for the workman to have stated the fact that order of termination was illegal or unjustified. Since no statement of claim has come forward it is not obligatory on the part of employer to file any written statement. He has relied on 1981(28) 194 FLR Allahabad High Court, V. K. Raj Industries v. Labour Court (I) and others. The learned representative of opposite party has argued that the Hon’ble High Court of Allahabad has laid down the principle of law holding when the workman does not appear not produced evidence before the court, the court has no jurisdiction to hold order illegal. It is well settled that if a part challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the court must fail. In the instant case, the Government had referred the dispute to this Tribunal at the instance of the aggrieved workman. Consequently, the burden lay on the workman to set out the grounds challenging the validity of the termination order and to prove that the termination order was illegal. The workman did not appear nor they produced evidence, with the result that there was no material before the court for recording a finding that the order of termination passed by the employer was unjustified or illegal.

The argument of the learned representative of the opposite party is supported by case law in the favour of the employers and in the circumstances I come to the conclusion that issue referred cannot be effectively adjudicated upon accordingly no claim award is passed.

Lucknow.

27-7-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2135.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बनारस स्टेट बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या आई डी 184 ऑफ 1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-08-2004 को प्राप्त हुआ था।

[सं० एल-12012/150/96-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd August, 2004

S.O. 2135.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 184 of 1997) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of Benaras State Bank Ltd., and their workman, which was received by the Central Government on 02-08-2004.

[No. L-12012/150/96-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRISURESH CHANDRAPRESIDING
OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SARVODAYA NAGAR,
KANPUR U.P.

Industrial Dispute No. 184 of 1997

In the matter of dispute between :—

The General Secretary,
All India Benaras State Bank Employees Union,
CK-27/4 Chariya Gali Chowk,
Varanasi

And

The Chairman
The Benaras State Bank Limited,
Head Office S-20/52, Varuna Bridge,
Varanasi

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No. L-12012/150/96-IR (B) dated 4-9-97 has referred the following dispute for adjudication to this tribunal :—

“Whether the action of the management of the Benaras State Bank Limited in stopping future increments including increments meant for education and stagnation and permanently debarring Sri Mohan Lal Pandey to work in posts attracting special allowance including key holding cashier is legal and

justified? If not, to what relief workman is entitled to?”

2. The case was taken up for hearing on 3-6-04 when parties evidence was to be adduced. Shri B.P. Saxena authorised representative for the union appeared in the case and submitted that no evidence is to be adduced from the side of the workman. On this the representative for the management also submitted before the tribunal that when the workman has not to adduce any evidence in the case the bank too does not want to adduce evidence in support of its case.

3. Thus in the above circumstances it appears that virtually it is a case of no evidence by the parties and therefore, the tribunal is left with no other option but to hold that the concerned workman is not entitled for any relief for want of evidence.

4. In the above circumstances it is held that the concerned workman is not entitled for any relief as claimed by him in his claim statement pursuant to the present reference order made to this tribunal.

5. Accordingly reference is answered in affirmative and in favour of the management.

SURESH CHANDRA, Presiding officer

नई दिल्ली, 4 अगस्त, 2004

का.आ. 2136.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल-40012/228/92-आईआर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 4th August, 2004

S.O. 2136.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to management of Deptt. of Telecom and their workman, which was received by the Central Government on 04-08-2004.

[No. L-40012/228/92-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, CHENNAI-600104.
Tuesday, the 13th day of July 2004

PRESENT:

THIRUK.S. VENKATACHALAM, B.Sc. B.L. DTL.,
INDUSTRIAL TRIBUNAL.

INDUSTRIAL DISPUTE NO. 146 OF 1994

(In the matter of dispute for adjudication Under Sec. 10(1) (d) of the Industrial disputes Act, 1947 between the

workman and the management of Telecom District Engineer, Virudhunagar).

The Workman

Shri M. Muthu, C/o M. Murugaiah,
Circle Organising Secretary,
N.F.T.E.-E4, Cross Bar Exchange,
Rajapalayam-626117.

And

The Telecom District Engineer,
Virudhunagar-626 001.

REFERENCE: Order No. L-40012/228/92-IR(DU) dated 13-5-94/1-5-94 Ministry of Labour, Govt. of India, New Delhi.

This dispute after remand coming on this day for final disposal in the presence of Tvl. P. Arulmudi & P. Srinivasan, advocates appearing for the Management upon perusing the reference, Claim and Counter statements and other connected papers on record and the Petitioner-Workman being absent, this Tribunal passed the following.

AWARD

The Government of India has referred the following issue for adjudication by this Tribunal :

"Whether the action of the Telecom Distt. Engineer, Virudhunagar in terminating the services of Shri M. Muthu w.e.f. 3-9-90 is justified? If not, what relief he is entitled to?"

Petitioner called absent. No representation. Advocate for the petitioner has filed Memo 'No instruction'. Award passed. Industrial Dispute is dismissed for default. No Costs.

Dated at Chennai, this 13th day of July, 2004.

K.S. VENKATACHALAM, Industrial Tribunal

नई दिल्ली, 4 अगस्त, 2004

का.अ. 2137.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-32/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल-40025/19/2004-आईआर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 4th August, 2004

S.O. 2137.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID 32/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the

Annexure in the Industrial Dispute between the employers in relation to management of Deptt. of Telecom. and their workman, which was received by the Central Government on 04-08-2004.

* [No. L-40025/19/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,

Presiding Officer

dated the 12th day of January, 2004

INDUSTRIAL DISPUTE L.C.I.D. NO. 32/2001

BETWEEN:

Sri Md. Imtiyaz
R/o 4-2-89, Ramaiah Bowli,
Mahabubnagar.

.....Petitioner

AND

1. The Telecom District Manager,
Mahabubnagar.

2. The Sub Divisional Officer,
Telecom, Mahabubnagar.

....Respondents

APPEARANCES:

For the Petitioner : Sri K. Ravinder Goud,
Advocate

For the Respondent : Sri R.S. Murthy,
Advocate

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : That the Petitioner has joined as casual mazdoor on 1-10-83 and worked continuously till 30-4-1985 and his services were terminated by oral order dated 1-5-1985. The Petitioner has completed 240 days of work in various places. He was doing work like laying cable, digging work, telephone maintenance and other miscellaneous works. On the day of termination of his service his juniors namely, S/Sri A. Madavaiah, M. Venkatesh, B.V. Subbaiah, S. Rahim, S.A. Rahman, etc., are still in service. The Petitioner filed OA No. 16/93 before the Hon'ble Central Administrative Tribunal, Hyderabad and it ordered his reengagement if there is work in preference to freshers. They engaged some other persons. Hence, he represented through an Advocate on 2-12-96. They did not consider. Hence, a legal notice was issued on 16-10-2000 even then nothing was done. Hence, he may be reinstated with all consequential benefits.

3. The Respondents filed counter stating that the dispute is not maintainable under Sec. 2A(2). That the Petitioner was engaged as casual mazdoor for 164 days during 1983-84, 177 days during 1984-85, 62 days during 1985-86 and 30 days during 1986-87. After a lapse of 7 years he approached the Hon'ble Central Administrative Tribunal vide OA No. 16/93. The Hon'ble Central Administrative Tribunal ordered that, "The applicant should be reengaged if there is work in preference to freshers in the same Unit from where he was retrenched earlier". As a matter of policy casual labour is not being engaged. No junior to Petitioner is working. Sri A. Madhavaiah and Others were engaged in Telegraph Traffic Wing. Consequent to its merger with Telecom Sub-Division, they were confirmed with temporary status. That the petition is also barred by principles of *resjudicata* having regard to the order, dated 1-11-95 in O.A. No. 16/93. The ID after such a long period is misconceived and the Petitioner is not entitled for any relief.

4. The Petitioner examined himself as WW1 and deposed that he has joined the Respondent Department on 1-10-1983 as casual mazdoor. He worked upto 30-4-85. In every year from 1983 to 1985 he completed 240 days. He used to work laying of cable, digging work, telephone maintenance and other miscellaneous works. After his termination he filed OA No. 16/93 which was disposed off on 1-11-95 which was marked as Ex. W1. The Hon'ble Central Administrative Tribunal directed the Respondent to take him into service. The Respondent did not comply with the orders of the Hon'ble Central Administrative Tribunal. He issued a legal notice which is Ex. W2. Ex. W3 is the day book where Respondent officers used to sign his attendance. In his place some others employed by name S/Sri. Madhavaiah, Venkatesh, Subbaiah, Raheem, P. Laxma Reddy and P. Ranga Rao. He prayed that he may be reinstated with back wages and all attendant benefits.

5. In the cross examination he deposed that he started working as casual mazdoor and worked upto 30-4-85. That they took work from him during 1986 also and gave him in writing that they will take him as and when there is work. He worked for laying down trunk lines between Mahabubnagar and Kodangal. After completion of that project he was given the digging work for laying down cables at Mahabubnagar. S.D.O.T. asked him not to come. That is going from 1986. He has not filed the copy of written representation. He does not remember the total number of days he worked. He filed OA No. 16/93 and obtained Ex. W1 orders. He went and asked several times after the order Ex. W1 but they said they have no work. They gave Ex. W4 that they would engage him when ever there is work. At present there is no engagement of casual labour in the Department. In the further chief he deposed after he was removed. Juniors to him are working. Ex. W5 is the list of casual mazdoors working in Mahabubnagar. Ex. W6 is the affidavit filed by Sri D. Balamuni, D.E.,

Telecom, Mahabubnagar in ID 9/2000 before Industrial Tribunal-II.

6. Sri S. Venkataramulu deposed that he is deposing from records. That the Petitioner used to be engaged intermittently upto 31-3-85. He did not come for work after 1-4-85 except for a spell of 30 days. thereafter he did not seek any work. There is a ban imposed for engagement of casual labourer in 1985 and in 1988 and so reported on 12-2-99. The letters are Ex. M1 and M2. In view of the ban no casual labourers have been engaged. The casual labourers are not engaged against any post for the need based work. They were paid daily wage on ACG-17 vouchers. The claimant did not seek any work after 1987. There is no retrenchment. Hence, the provisions of Sec. 25F are not applicable to the casual labourer engaged on daily wages. Hence, the Petitioner is not entitled to any relief.

7. In the cross examination he deposed that he is worked as S.D.O. since 17-5-2000. Basing on the records he is deposing the evidence. There is record to show that the Petitioner worked from 1983. From October, 1983 to March, 1984 he worked for 164 days. From April, 1984 to February, 1985 he worked for 177 days. During April, 1985 to March, 1986, he worked for 62 days. In 1986 and 1987, he worked in April, 1986 for all the 30 days. From October, 1983 to September, 1984 he worked for 323 days and he denied that Sec. 25-F of the I.D. Act is applicable.

8. It is argued by the Learned Counsel for the Petitioner that according to MW1, it is admitted that from October, 1983 to September, 1984 the Petitioner worked for 323 days which is obviously more than 240 days. That his services were terminated on 1-5-86 orally and therefore the oral termination may be set aside and he may be directed to reinstated with all consequential benefits forth with. That the claim of the Respondent that he did not seek any work from 1997 onwards is not correct and therefore the Petitioner is entitled for all the reliefs as claimed for.

9. It is argued by the learned Counsel for the Respondent that the alleged oral termination on 1-5-85 was challenged by him on OA 16/93. The Hon'ble Central Administrative Tribunal disposed off the OA 16/93 vide order dated 1-11-85 directing to reengage him, as the direction was not complied, a notice was issued on 16-10-2000. It was mentioned that he represented to the SDOT for work from 1986 and also approached for providing work pursuant to the order in OA No. 16/93. He was informed that there is no work. The record shows that the Petitioner was engaged in 1983-84 for 164 days, in 1984-85 for 177 days and in 1985-86 for 62 days. Now he has waken up after so many years and approached this Court. The Petitioner having accepted the order of the Hon'ble Central Administrative Tribunal on 1-11-85 could not agitate the same and the Learned Counsel for the Respondent relied on various Judgements.

10. It may be seen that even according to Petitioner he worked upto 1-10-83 to 30th April, 1985 then he filed OA 16/93 which was disposed off on 1-11-95. So, it may be seen that first of all he kept quite till 4-1-93 for 8 long years and afterwards he approached this Court after a gap of 17 years. No doubt, limitation is not provided under Act. But yet it cannot be taken for granted that one can approach at any time at his will and pleasure. 20 years means a generation gap. He comes to the Court after 17 years, obviously he would not have been out of work. Hence, I have no option but to give same order which was given by the Hon'ble Central Administrative Tribunal that the Petitioner should be reinstated if there is work in preference to the freshers in the same unit or from where he was retrenched earlier. If, in pursuance of this direction he is going to be engaged, none of the casual mazdoors who are already in service will be retrenched, but one word of caution, the Respondent should be magnanimous and do not take it as a question of prestige, after all these casual mazdoors come from the lowest strata of society, economically backward, uneducated and therefore it is in the best of the things that the Respondents should be magnanimous, although a direction is given by the Hon'ble Central Administrative Tribunal in 1995 yet, it has to see the light of the day. I hope and trust if any casual labour is engaged this Petitioner will be given preference taking his date of appointment as 1-10-83 and for age factor, his age should be counted as on 1-10-83.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 12th day of January, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1 : Sri Md. Imtiyaz	MW1 : Sri S. Venkataramulu
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Documents marked for the Petitioner

Ex W1:	Copy of order in OA No. 16/93
Ex W2:	Copy of legal notice by WW1 dt. 16-10-2000
Ex W3:	Day Book
Ex W4:	Representation to engage WW1 dt. 2-12-96
Ex W5:	Copy of list of casual mazdoors working in Mahaboobnagar
Ex W6:	Copy of affidavit filed by Sri D. Balamuni, D.E., Telecom Mahaboobnagar in 4D 9/2000 before Industrial Tribunal-II, Hyderabad

Documents marked for the Respondent

Ex M1:	Copy of instn. No. TA/STA/9-1/Rlgs./V. dt. 23-5-85
Ex M2:	Copy of Ir. No. 269-4/93-STN-II (Pt.) dt. 12-2-99

नई दिल्ली, 4 अगस्त, 2004

का.आ. 2138.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल सी आई डी-53/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं० एल-40025/20/2004-आईआर (डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th August, 2004

S.O. 2138.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. LCID 53/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 4-8-2004.

[No. L-40025/20/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: AT HYDERABAD

Present : SHRI E. ISMAIL, B.Sc., LL.B.,
Presiding Officer

Dated the 13th day of January, 2004

INDUSTRIAL DISPUTE L. C. I. D. NO. 53/2003
(Old I.D. No. 295/99 Transferred from Labour
Court, Guntur)

BETWEEN:

Sri Amruthluru Subba Rao,
C/o Pochipogu Salomon,
16th Ward, Sanjay Colony,
Nidubrole

AND

1. The Superintendent of Posts,
Tenali
2. The Sub-Post Master,
Ponnur

.... Respondents

APPEARANCES:

For the Petitioner	: M/s M. Govind, N. Janardhan Reddy & K. Ajay Kumar, Advocates
For the Respondent	: Sri B. Rajavardhan Reddy, Advocates

AWARD

This is a case taken, under Sec. 2A(2) of the I.D. Act, 1947 by the Labour Court, Guntur in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 bearing I.D. No. 295/99 and renumbered in this Court as L.C.I.D. No. 53/2003.

2. The brief facts as mentioned in the petition are : That the Petitioner joined as EDDA in the Management of Postal Department on 7-11-97 and worked continuously without any laches till 1-4-99. The Petitioner is retrenched from service without any prior notice, without satisfying the mandatory provisions laid down under Sec. 25 F of the ID Act. On 1-4-99 as usual the Petitioner attended to his duties. The Management did not allow him in duties on the other hand the second Respondent served a memo stating that the services of the Petitioner are terminated. After several oral requests, he served a notice on demand, on 4-8-99 to the first Respondent requesting him to reconsider his case. The termination is opposed to law. Hence, he may be directed to be reinstated with continuity of service and attendant benefits and back wages with 12% interest per annum.

3. A counter was filed on behalf of the Management. That the Management submits that the Department of Posts is not an 'Industry' and its employees are not workmen under the provisions of I.D. Act, 1947. This was decided by the Hon'ble Supreme Court in its Judgement in CA No. 2431/1994. Copy of the order is annexed herewith. The petition has to be dismissed on that point only. The Management respectfully submit that the EDDA was created w.e.f. 7-11-99 for redeployment of the post of EDMC, Bodipalem branch office under Machavaram sub division. The Petitioner was appointed as EDDA, Ponnur only on provisional basis on 7-11-97. The selection process to fill up the post of EDDA, Ponnur a regular post was initiated by addressing the employment exchange, Guntur for sponsoring the candidates on 6-2-99. Subsequently, an open notification was issued on the even date. 32 applications were received, among which 4 were rejected. Out of the remaining applications five candidates were called for interview on 30-3-99 on merit basis. The present Petitioner is also one of the candidates among the said 28 candidates. Subsequently five candidates were selected on merit basis. The present Petitioner is not among those five candidates as the percentage of marks secured by him is very very less. That he filed OA No. 678/99 on 29-4-99 and the Hon'ble Central Administrative Tribunal, Hyderabad has dismissed his case. Hence, the petition may be dismissed.

4. The Petitioner examined himself as WW1 and deposed that he joined the Respondent Department on 7-11-97 as EDDA on provisional basis. That on 1-4-99 he was retrenched, which is marked as Ex. W1. He made several representations but to no avail. That he served a demand notice to Respondent No. 1 copy of which is marked as Ex. W2 and the same was received by R1 on 5-8-99, acknowledgement is Ex. W3. That he was assured that after completion of 240 days his service will be regularized. That he filed OA No. 678/99 before the Hon'ble Central Administrative Tribunal copy of which is marked as Ex. W4. The minimum qualification for EDDA is only 10th class whereas he has completed intermediate in the year 1994. At the time of termination no enquiry is conducted and he was drawing Rs. 2153 per month.

5. In the cross examination he deposed that on his application the Department has taken him on service on provisional basis. The appointment is not under any notification. That subsequently, the Department has issued a notification to fill up the EDPA posts at Ponnur for regular appointment reserving it for SC category. He applied for the said post. That he secured 176 out of 500 in SSC. He approached the Hon'ble Central Administrative Tribunal. That he was called for interview. He was not selected because of marks. That as per the Hon'ble Central Administrative Tribunal's direction he was again called for interview for the post of ED Packer at Ponnur. He could not be selected because of his low marks. It is correct that he was called twice for interview.

6. Assistant Post Master, Sri G. Sambamurthy examined himself as MW1 and agreed that while the Petitioner was appointed previously as EDDA purely on temporary basis and he repeated what all was admitted by the Petitioner in the cross examination. In the cross examination he deposed that he does not know whether S/Sri K. Nagabhushanam, K. Koteswar Rao, Shiek Kalesh, Sk. Sammad, Prabhu Das, Venkatpalli appointed previously as EDDA were subsequently regularized. That the Petitioner was not given any notice or pay in lieu of notice, no retrenchment compensation was also paid. He denied that for non compliance of the above termination is illegal. The minimum qualification is 8th pass, but SSC preferable. No restriction on higher qualification. He denied that merely because the Petitioner approached the Hon'ble Central Administrative Tribunal, he was deprived.

7. It is argued by the Learned Counsel for the Petitioner submits that the Petitioner has put in more than 240 days continuous service. That I.D. Act applies to the postal employees also and therefore Sec. 25F should have been complied with. The very termination without applying the Sec. 25F is illegal and hence, the Petitioner is liable to be reinstated as per 1 LLJ 1981 SCC page 386, wherein their Lordships held that it is sufficient if the workman has completed more than 240 days. He also relied on 2001 (1) LLJ page 742 wherein it was held, "When the employee

had put in more than 240 days of service in each year for several years, and there was termination of his service in violation of the procedure prescribed under Section 25F of the I.D. Act, 1947 as it was in this case, the employee would have to be reinstated on the same terms and conditions in which he was working". He also relied on 2002 Supreme Court Cases (L & S) page 1010, wherein it was held that, "Reinstatement—Held, is to the same original status on same terms and conditions—Hence, High Court was wrong in denying benefit of Sec. 25F to appellant on the ground that his reinstatement would have the effect of changing his status from casual worker to a permanent employee—If retrenchment is affected without complying with requirements of Sec. 25F, employee has to be reinstated to his original service on the same terms and conditions on which he was working earlier—High Court order set aside and award of Labour Court which directed appellant's reinstatement with back wages, restored". He also relied on 1998 (4) ALD page 406 a Judgement of the Hon'ble High Court of A.P., wherein it was held that, "Plea of employer that the Petitioner was employed on temporary basis in view of temporary increase of work—Not established—Termination illegal". He also relied on a full bench of Hon'ble High Court of A.P., Judgement in 1998 1 LLJ page 109 wherein it was held that, "It is, therefore, evident that the Petitioner continuously served more than five years but her services orally terminated without holding any enquiry. Such mode of termination amounts to illegal retrenchment contravening Sec. 25F of the I.D. Act. Either retrenchment notice or compensation was not given to her and therefore, held that termination of service of the Petitioner is illegal". He also relied on 1998 1 CLR page 184 wherein their Lordships held that, "as per the test laid down in the case of Bangalore water Supply, the Telecommunication Department is an industry as defined in S.2 (j) of the Act, that it is not engaged in discharging any of the sovereign functions of the state and that the decisions in the cases of Sub-divisional Inspector of Post, Vaikam V. Theyyam Joseph 1996 II CLR 237 and Bombay Telephone Canteen Employees Association V. Union of India 1997 II CLR 218 cannot be treated as laying down the correct law". Hence, he may be reinstated with back wages and all attendant benefits.

8. It is argued by the Learned Counsel for the Respondent that the Department of Posts is not an 'Industry' and its employees are not workmen under the provisions of I.D. Act, 1947. This was decided by the Hon'ble Supreme Court in its Judgement in CA No. 2431/1994. The petition has to be dismissed on that point only. The EDDA was created w.e.f. 7-11-99 for redeployment of the post of EDMC, Bodipalem branch office under Machavaram sub division. The Petitioner was appointed as EEDA, Ponnur only on provisional basis on 7-11-97. The selection process to fill up the post of EDDA, Ponnur a regular post was initiated by addressing the employment

exchange, Guntur for sponsoring the candidates on 6-2-99. Subsequently, an open notification was issued on the even dated. 32 applications were received, among which 4 were rejected. Out of the remaining applications five candidates were called for interview on 30-3-99 on merit basis. The present Petitioner is also one of the candidates among the said 28 candidates. Subsequently five candidates were selected on merit basis. The petitioner is not among those five candidates as the percentage of marks secured by him is very very less. That he filed OA No. 678/99 on 29-4-99 and the Hon'ble Central Administrative Tribunal, Hyderabad has dismissed his case. Hence, the Petitioner is not entitled for any relief.

9. It may be seen that as per the Judgement reported in Sub-divisional Inspector of Post, V. Theyyam Joseph 1996 II CLR 237 and Bombay Telephone Canteen Employees Association V. Union of India 1997 II CLR 218, subject to Postal Department is held as an 'Industry' and obviously the Petitioner has worked from 7-11-97 till 31-3-99 as EDDA, obviously for more than 240 days in 12 months and admittedly by MW1 no notice or retrenchment compensation was given to him. Hence, he is liable to be reinstated but it has come in evidence that other appointments are made and five other persons have been appointed. Hence, I am of the opinion that giving him some compensation would meet the ends of justice. He was drawing Rs. 2153/- at the time of termination. Hence, it may be just and desirable to pay him 10 months last drawn pay. According to him his pay is Rs. 2153. Hence, he is entitled for Rs. 21530 plus Rs. 1470 as cost of this litigation, total Rs. 23000 which must be paid within 30 days of publication of this award failing which he will be entitled of interest at 12% p.a. after completion of 30 days of publication of award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 13th day of January, 2004.

E. ISMAIL, Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri A. Subbarao	MW1 : Sri G. Sambamurthy

DOCUMENTS MARKED FOR THE PETITIONER

Ex. W1: Copy of termination order dt. 1-4-99
Ex. W2: Copy of dem and notice dt. 4-8-99
Ex. W3: Copy of acknowledgement to Ex. W2
Ex. W4: Copy of order in OA 678/99 dt. 29-4-99

DOCUMENTS MARKED FOR THE RESPONDENT

NIL

2502 G1/04-13.

नई दिल्ली, 4 अगस्त, 2004

का.आ. 2139.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 32/98 को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं० एल-40012/30/96-आई आर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 4th August, 2004

S.O. 2139.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/98) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom. and their workmen, which was received by the Central Government on 4-8-2004.

[No. L-40012/30/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT,

SARVODAYA NAGAR, KANPUR, U.P.

Present : Sri Suresh Chandra, H.J.S.

INDUSTRIAL DISPUTE NO. 32 OF 1998

In the matter of the dispute

BETWEEN

Shri Jagdish C/o V. K. Gupta
2/363 Namner, Agra-282001

AND

The Telecom District Manager
Aligarh, Telecom District,
Aligarh

AWARD

1. Central Government, Ministry of Labour vide Order No. L-40012/30/96-IR(DU) dated 2-3-98, has referred the following dispute for adjudication to this tribunal :—

“Whether the action of the management of Telecom Aligarh in terminating the services of Sri Jagdish

Workman w.e.f. 1-4-92 is legal and justified. If not to what relief he is entitled to ?”

The case of the workmen in short is that he was appointed as labour in Telecom Department at Aligarh against a regular and permanent vacancy, during April, 1988 till 31-3-92 and he worked as such for more than 240 days continuously in 12 consecutive months. It is alleged that the management discontinued his services without any notice or notice pay and without retrenchment compensation. It has further been alleged by the workmen that at the time of his retrenchment he was not the junior most whereas juniors to him were retained in service and that new hands were appointed after termination of his service. Thus it has been claimed by the workman that the action of the management is unfair, illegal and arbitrary and he is entitled to be reinstated in service with back wages and continuity of service and other related benefits.

3. The management has filed written statement wherein the claim of the workmen has been refuted. It has been alleged by the management that there is no provision in the answering department to appoint the concerned workman as labour. It has been admitted by the telecom department that some casual labourers are used to be kept in this department as per need of work and their services stood automatically terminated on completion of work. It has been denied by the management that the workman was ever appointed with the management at Aligarh. Management has also pleaded that there is no requirement of giving notice or retrenchment compensation to such casual labours whose services stood terminated by efflux of time on completion of work. Opposite party has denied the factum of seniority amongst casual labour and has also denied that any junior to the workman has been retained in the service of the management or fresh hands have been appointment. It has also been alleged by the management that the Government of India, vide circular have banned fresh intake of casual labours. In the and it has been alleged by the management that there is no work of casual labour with the management hence question of engaging the concerned workman on the work does not arise at all. On the basis of above it has been prayed that the claim of the workman be dismissed.

4. The workman has filed rejoinder but nothing new has been pleaded therein except breach of provisions of section 25F, 25G and 25H of the Industrial Disputes Act, 1947.

5. In support of his case the workman has examined himself as W.W. 1 and has also filed documents per list dated 25-4-01 Apart from the above the workman also moved for summoning of certain documents which may prove the

working days of the workman with the management. The learned predecessor *vide* his order dated 24-5-01 and 16-7-01 remarks that the management admitted the contents of the workman as shown photocopy certificate dated 11-4-89 and 25-6-92 issued by Telecom Department Aligarh purposed to have certified the working days of the workman with the department. Even through the written arguments filed on behalf of the management of Telecom Department Aligarh has suggested that the certificate in respect of working days of even casual labour is issued which comprises of the details of working days of the workman with the department. Learned predecessor therefore expressed his view that the copies so filed on behalf of the workman are sufficient to show the genuineness of the documents.

6. On behalf of the management no evidence oral or documentary has been adduced despite a number of opportunities given to them by the tribunal to adduce evidence.

7. The workman on oath has stated that he worked with the department as casual labour from April, 1988 to 31-3-92 and he has worked for more than 240 days in a calendar year regularly and that he was disengaged all of sudden w.e.f. 1-4-1992 and that he was neither compensated with retrenchment compensation nor a notice as required was given to him by the management. He further states that after his disengagement other persons were employed on the vacancy caused by the workman on account of his disengagement. On behalf of the management even cross examination was made but nothing could be brought out which may believe the truthfulness of the case of the workman. His testimony on oath is also supported by the documentary evidence filed by the workman which too has not been challenged. A look at the documents goes to reveal that in the year 1988 the workman has worked for 156 days and in the year 1991 he worked for more than 267 days. Thus it is evidently clear that the workman has worked for more than 240 days with the management without break in a calendar year prior to his disengagement. Under the provisions of Section 25-F of Industrial Disputes Act, 1947, the management of Telecom Department, Aligarh, was under obligation to pay him retrenchment allowance compensation and also one month's notice pay in lieu of notice which has not been paid by the management nor there is a violation of evidence adduced by the management in this behalf. The statement on oath of the workman also goes unchallenged that after his disengagement the management got the work from other workmen and that no opportunity to the workman was given for his reemployment which is also an example of wilful violation of the provisions of Section 25H of Industrial Disputes Act, 1947.

8. From the discussions made above it is thus clear that the management's action in disengaging the workman amounts to termination and also violates the provisions of Section 25F of the Industrial Disputes Act. The action of the management in not intimating the workman for his reemployment in the event of new workers having been employed also amounts to violation of provisions of Section 25H of the Industrial Disputes Act, 1947.

9. The Management filed written arguments against the contention of the workman of which in para 4 it has been clearly denied that the workman from November 88 to Dec. 90 had never come for his work and he was busy in his own business. This argument is not supportable by any evidence on record. In para 2 of the written arguments the management contains that the workman Jagdish was appointed as Casual Labour for certain specified period, for specified work and also per specified quality but these contentions are also not supported by any evidence, therefore, these contentions are also not of any help to the management.

10. The management along with written arguments has filed circular relating to casual labourers (Grant of Temporary Status and Regularisation Scheme). The management however, could not succeed in the relevancy of this circular with the facts of the present case and that the workman is not entitled for re-employment or that he has not worked for more than 240 days in a calendar year proceeding the date of his termination in the month of March, 02.

11. From the ensuing discussions it is held that the action of the management of Telecom Department Aligarh in terminating the services of Jagdish workman with effect from 1-4-92 is neither legal nor justified. The workman, is therefore, entitled for his reinstatement on wages which he was drawing at the time of his disengagement.

12. The award is, therefore, answered accordingly against the management of Telecom Department, Aligarh.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2140.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, आर. ए. पी. एस. प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोटा (संदर्भ संख्या औ. न्या./केन्द्रीय/6/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-42012/146/2002-आईआर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2140.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. LC/C/-6/2003 of the Industrial Tribunal Kota as shown in the Annexure in the Industrial Dispute between the management of Rajasthan Atomic Power Station, Unit I & 2, and their workmen, received by the Central Government on 5-8-2004.

[No. L-42012/146/2002-IR (C-II)]

N. P. KESAVAN, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज./

पीठासीन अधिकारी : के.सी. सिंघल, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : ओ.न्या./केन्द्रीय/-6/2003

दिनांक स्थापित : 7/3/2003

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेशांक एल. 42012/146/2002 (आईआर) सीएम-II/दिनांक 17-2-2003

औद्योगिक विवाद अधिनियम, 1947

मध्य

जनरल सैक्रेटरी, राजस्थान अनुशक्ति
परियोजना कर्मचारी संघ,
रावतभाटा

—प्रार्थी यूनियन

एवं

प्रबन्धक, राजस्थान एटोमिक पावर स्टेशन
यूनिट 1 एवं 2 रावतभाटा।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी यूनियन की ओर से प्रतिनिधि : कोई उप. नहीं

अप्रार्थी नियोजन की ओर से प्रतिनिधि : श्री वी. के. जैन

अधिनिर्णय दिनांक : 19-5-2004

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासंगिक आदेशांक दिनांक 17-2-2003 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 [जिसे तदुपरान्त "अधिनिर्णय" से सम्बोधित किया जायेगा] की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

"Whether the action of the management to regularise 15 Ward boys/ayahs w.e.f. 2-1-1995 and not from

their date of initial appointment is as per law? If not, are the workers entitled for regularisation with all consequential benefits w.e.f. the date of their initial appointment?"

2. निर्देश/विवाद, न्यायाधिकरण से प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों की सूचना विधिवत् रूप में जारी की गयी जिस पर दोनों पक्षों की ओर से अपनी-अपनी उपस्थिति दर्ज करवायी गयी।

3. आज पत्रावली वास्ते पेश होने क्लेम स्टेटमेन्ट प्रार्थी पक्ष नियत थी, परन्तु प्रार्थी यूनियन की ओर से कोई प्रतिनिधि अथवा अन्य कोई प्राधिकृत व्यक्ति न्यायाधिकरण में उपस्थित नहीं हुआ, ना कोई क्लेम स्टेटमेन्ट ही प्रस्तुत किया गया है। पूर्व पेशी पर भी प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं हुआ था, ना कोई युक्तियुक्त कारण ही उपस्थित नहीं होने बतलाया गया है। इन समस्त तथ्यों से यह स्पष्ट प्रकट होता है कि प्रार्थी यूनियन को अपने इस विवाद में कोई रुचि नहीं रही है, फलतः उनका क्लेम पेश किये जाने का अधिकार समाप्त किया जाता है। अप्रार्थी नियोजक पक्ष की ओर से भी कोई पक्ष प्रस्तुत नहीं करना प्रकट किया गया।

बहस सुनी गयी, पत्रावली का ध्यानपूर्वक परिशीलन किया गया। चूंकि प्रार्थी यूनियन की ओर से उक्त लम्बित निर्देश/विवाद के सन्दर्भ में किसी प्रकार का कोई क्लेम स्टेटमेन्ट प्रस्तुत नहीं किया गया है और अभिलेख पर क्लेम का पूर्णतया अभाव रहा है, अतः प्रार्थी यूनियन, क्लेम अभाव में अप्रार्थी नियोजक से किसी प्रकार का कोई अनुतोष प्राप्त करने की अधिकारिणी नहीं पायी जाती और सम्प्रेषित निर्देश/विवाद को तदनुसार अधिनिर्णीत कर उत्तरित किया जाता है जिसे नियमानुसार समुचित सरकार को प्रकाशनार्थ भिजवाया जाये।

के. सी. सिंघल, न्यायाधीश

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2141.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, ई.पी.एफ.ओ. प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण शोलापुर (संदर्भ संख्या 2/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-42012/259/2001-आईआर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2141.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 2/2002 of the Industrial Tribunal Sholapur as shown in the Annexure in the Industrial Dispute between the management of Employees Provident Fund Organisation, and their workmen, received by the Central Government on 5-8-2004.

[No. L-42012/259/2001-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**IN THE INDUSTRIAL COURT, SOLAPUR**

Reference (IT) No. 2/2002

The Provident Fund Commissioner,
Employees Provident Fund Organisation,
165-A, Railway
Lines, Surwase Towers,
Solapur-413001

: Ist Party

Vs.

Shri Venkatesh Sidram Tapse,
Age 41 years, Occu : Nil,
R/o 186, Shukrawar Peth,
Solapur-413001

: IInd Party

CORUM: S. C. KADAM, MEMBER

Appearances : Shri B. V. S. S. Prasad,

Asstt. P.F. Commissioner for

: Ist Party

Shri G. H. Kulkarni, Advocate, for

: IInd Party

AWARD

(26-7-2004)

The second party has filed Statement of Claim at Exh. U-1 and has contended that, that the Ist party is a body constituted under the provisions of law and carries on business throughout India. The Ist party in having its offices at various places throughout India, the Ist party has engaged several employees for running its establishment. That the post of watchman was vacant in the office of the Assistant Provident Fund Commissioner, Employees P.F. Organization, Sub-Regional Office, 165-A, Railway Lines, Surwase Towers, Solapur. Therefore the second party applied for the post of Watchman on 17-5-99 to the Ist party. Thereafter with the permission of the Regional P.F. Commissioner, Regional Office, Maharashtra and Goa, 341, Bhavishya Nidhi Bhavan, Bandra (East), Mumbai-51, the IInd Party was appointed by the Ist party as Watchman on daily wages with effect from 24-5-99 by order dated 21-5-99. The Ist party has terminated the services of IInd party by its order dated 1-3-2001 w.e.f. 1-3-2001. The IInd party was getting salary of Rs. 112/- per day from the Ist party. The IInd party has rendered continuous services with the Ist party from 24-5-99 to 1-3-2001. During the period the IInd party has actually worked for more than 240 days in calendar year. The IInd party has actually worked for 635 days from 24-5-99 to 1-3-2001. The IInd party has actually worked for 16 hours on every day with Ist party but the Ist party has not paid any extra wages or over time wages to IInd party at any time. The IInd party has worked honestly, sincerely and has rendered

unblemished, meritorious services with Ist party. Before terminating the services of IInd party, the Ist party has neither issued one month's prior notice nor paid one month salary in lieu of notice to the IInd party. The Ist party has also not paid retrenchment—compensation to IInd party. The employer has neither maintained any seniority list nor published the same before terminating the IInd party. The Ist party has not followed the principle of 'Last come First go'. The Ist party has appointed new person in place of IInd party. The work which the IInd party was performing was of perennial in nature. On the date of termination of services of the IInd party the work was available. The employer and Ist party was contravened the mandatory provisions of Section 25 (f, g, h, m) of Industrial Disputes Act, 1947 and Rule 81 of B. I. Disputes Rules. The action of the Ist party terminating the services of the IInd party is illegal, arbitrary and void-ab-initio. That the Ist party has terminated the services of IInd party with undue haste and by engaging in unfair labour practices. The IInd party has been victimised. The Ist party has terminated the services of IInd party under the colourable exercise of employer's rights, without holding any domestic enquiry, without following the principles of natural justice and for patently false reasons. The IInd party has rendered unblemished, meritorious services with Ist party. The IInd party was the only earning member of his family. The aged parents, wife and minor school going children are depending upon the IInd party. The IInd party has no source of income. Because of sudden termination of services of the IInd party, the IInd party and his family is facing starvation. The IInd party is about 42 years old and will not get employment elsewhere. The Ist party has not considered all these aspects and awarded shockingly disproportionate punishment of termination of services to the IInd party. Lastly prayed that the reference be allowed and the order dated 1-3-2001—terminating the services of IInd party w.e.f. 1-3-2001 passed by Ist party be quashed and set-aside and the Ist party be ordered to reinstate the IInd party with continuity of service and full back wages and other benefits from 1-3-2001 till the actual reinstatement of IInd party by Ist party.

2. The first party has filed parawise comments at Exh. C-3 and has contended that when the SRO Solapur was opened, it was proposed to transfer some of the accounts pertaining to the jurisdiction of Solapur to the new office. Earlier, these accounts were being handled by SRO Pune and SRO Aurangabad. Accordingly, it was also proposed to transfer some of the staff to the newly opened SRO i.e. at Solapur. During initial period there was only skeleton staff functioning in the office. There was no sanctioned post of Watchman accorded by the Head Office. As per

the exigencies prevailing at that time it was decided to deploy the services of Watchman on temporary basis. As such the applicant Shri V. S. Tapse made an application to work as a Watchman on temporary basis for the said purpose. RPFC, Pune was directed to deploy the services of Watchman accordingly. As Shri Tapse was engaged on stop-gap arrangement. When regular arrangement was made he was discontinued. The applicant cannot claim employment in the organisation. The 1st party has further made comments parawise that Shri V. S. Tapse was deployed as a Watchman for the newly creates SRO Solapur on daily wages basis as a stop-gap arrangement. There was no sanction post of Watchman given by the head office. Since the office building was in a remote area his services were utilised intermittently as a stop-gap Watchman. That as he was working on daily wages basis, he was paid his wages as per the prescribed rates stipulated by the Government. That Shri Tapse was engaged on day to day basis, the department was empowered to discontinue him when it was not necessary to engage a Watchman. As he was engaged as a stop-gap arrangement, the question of seniority of service does not arise. That it is denied that Shri Tapse was not engaged through the employment exchange for employment in the department. He was only deployed on daily wages basis as a stop-gap arrangement. As such he cannot claim for confirmation. That the appointment letter issued to him by the Enforcement Office Solapur is not correct as the Enforcement Officer is neither competent nor had authority to appoint him. In the said premises the prayer made by the applicant to reinstate in his original post is not justified. However, the department is availing the services of the Contractual Staff for the said purpose.

3. I have framed the issues below Exh. C-1 and I have answered against them accordingly.

Issues	Findings
(1) Does the IInd party prove that the action of the 1st party-the management of Employees Provident Fund Organisation, Mah. and Goa in terminating the services of Shri Venkatesh S. Tapse, Watchman w.e.f. 1-3-2001 is legal and justified?In the affirmative.
(2) What order?As per final order.

Reasons

4. Shri G. H. Kulkarni, advocate for the IInd Party

argued that by terminating the services of Shri V.S. Tapse, the 1st party has committed error and the termination order itself is bad-in-law and therefore the Court has to reinstate the IInd party in the services. None has appeared on behalf 1st Party. The IInd party has examined himself at Exh. UW-1 and IInd party has contended that on 17-5-99 he had submitted an application to give him appointment as a Peon-cum-Watchman. He was called for interview on 31-5-99. One A.O. (PF) Committee had interviewed him. He has selected in the said interview and he has joined on 24-5-99. He has directed to do duties to clean the office, to fill the water. His office hours were given to him from 5.30 p.m. to 9.30 a.m. of next day. His attendance was marked in the muster roll. Rs. 112/- used to give him by the 1st party. He has worked upto 1-3-2001 subsequently he was not allowed to resume duties. Therefore he had filed complaint. His services is in continuous. He has further contended that he had worked for more than 240 days in each calendar year. The documents relating to the proceedings have been with the 1st party. No notice was issued to him before termination and before termination of his services no retrenchment compensation was paid to him. No seniority list was maintained by the department. The work which he was doing is still going on. The 1st party has appointed another person on contract basis and the work is of perennial in nature. The members of his family viz. parents, wife and son are depend upon him. He used to perform duties about 16 hours in a day. No Over-time was paid to him. He prays that he may be continued in services with back wages and he is unemployed since termination.

5. From the oral evidence it is clear that the IInd party has worked for more than 240 days and his services are terminated without following due procedure of law. None has appeared on behalf of 1st party and therefore I answer issue no. 1 in the affirmative.

6. In the result, I proceed to pass the following award.

AWARD

- I. The reference is allowed.
- II. It is declared that the 1st party has terminated the services of the IInd party illegally and without following the due procedure of law.
- III. The 1st party is directed to reinstate the IInd party in the services with continuity of service and full back wages.
- IV. No order as to costs.

Place : Solapur

Dated : 26-7-2004

S. G. KADAM, Member

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बाल भवन सोसाईटी आफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नम्बर-1, नई दिल्ली (संदर्भ संख्या 51/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-42012/58/2001-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 5 August, 2004

S.O. 2142.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2002) of the Central Govt. Industrial Tribunal-cum-Labour Court, New Delhi No. 1 as shown in the Annexure in the Industrial Dispute between the management of Bal Bhawan Society of India, and their workmen, which was received by the Central Government on 5-8-2004.

[No. L-42012/58/2001-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NEW DELHI

PRESIDING OFFICER : SHRI S. S. BAL

I.D. No. 51/2002

In the matter of dispute between :

Shri Durga Prasad
Jhuggi No. 2
Hathi Park, Kotla Road,
New Delhi.

.....Workman

Versus

The Director,
Bal Bhawan Society of India,
Kotla Road,
New Delhi-110012.

.....Management

AWARD

The Central Government in the Ministry of Labour, vide its Order No. L-42012/58/2001-IR(C-II) dated 8-1-2002 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of management of National Bal Bhawan, Kotla Road, New Delhi-12 in terminating the services of Shri Durga Prasad Casual Daily worker w.e.f. 16-3-2000 is legal and justified? If no, to what relief the said workman is entitled to?”

2. Corrigendum dated 18-2-2002 was issued by the Ministry of Labour stating therein that Name of the CGIT given in para 3 and Sl. No. 1 of the Order no. L-42012/58/2001-IR(C-II) dated 8-1-2002 may be read as CGIT, New Delhi and address of the party at Sl. No. 3 may be read as Shri Durga Prasad J.J. Slum Deptt. Punarwas Colony, Sector-5, Pocket 8, Flat No. 618 Narela, Delhi-110040.

3. Application for passing the award in terms of settlement between management and workmen was moved by the Advocate Shri Vimal Goyal for National Bal Bhawan Society and signed by the workman. Copy of settlement recorded in Hindi is enclosed with the application wherein it is mentioned that workman has settled/compromised the matter with the management according to which he would be engaged w.e.f. 29-10-02 in Bal Bhawan and work as before and he had given up his claim with regard to his back-wages. He settled the matter of his own accord without any pressure from any body. It appears that written statement on behalf of the respondent management National Bal Bhawan has been filed wherein it is mentioned that claimant was engaged as daily wager in National Bal Bhawan on various spans after giving breaks on various casual works during various functions and summer session, National Bal Bhawan requires the additional man powers 10th temange the affairs of the Bal Bhawan. Complaint was engaged on various temporary works/services which were not of permanent nature. Claimant was engaged on various occasions during the functions for various jobs like malis, Peons, helper. He was sometimes engaged through employment exchange also. Since the services of the claimants were not required for these functions additional work he was not engaged after 31-3-2000/16-3-2000 and that he being daily wager had no right to post be claims. It is, however, mentioned that the management of Bal Bhawan can absorb the incumbent on daily wages w.e.f. 29-10-2002 as and when permanent vacancy would arise would be absorbed. However, it appears that the workman has been absorbed by the management on daily wages w.e.f. 29-10-2002 as mentioned in para 6 of the W.S. which is apparent from the settlement filed by the workman.

Hence award is made accordingly in terms of the settlement.

S. S. BAL, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बी.बी.एम.बी. प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ (संदर्भ संख्या 21/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-23012/3/94-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2143.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/95) of the Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 5-8-2004.

[No. L-23012/3/94-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH**

16/6/2004

No body has appeared for the parties today.

In following references Viz :

1. I.D. 20/95 Mahinder Singh Vs. BCB Reference No. L-23012/8/94-IR (C.II) dated 8-3-1995
2. I.D. 21/95 Mahabir Singh Vs. BCB Reference No. L-23012/3/94-IR (C.II) dated 8-3-1995
3. I.D. 22/95 Om Parkash, Vs. BCB Reference No. L-23012/2/94-IR (C.II) dated 8-3-1995
4. I.D. 173/94 Bhagwan Dass, Vs. BCB Reference No. L-23012/7/94-IR (C.II) ated 17-11-1994

the mater was under the consideration of Hon'ble High Court of Punjab & Haryana in CWP No. 6623 of 1995, which was decided on 14-5-2003. The copy of the Judgement received from the High Court has been kept in the Misc. file of this Tribunal. As per the judgement all the references in these four petitions have been held to be belated and so have been quashed. As a result, these references are not maintainable in the light of the judgement of the Hon'ble High Court. As such they are answered accordingly. Let a copy of this order be sent to the Ministry of Labour for further action.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बी.बी.एम.बी. प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ (संदर्भ संख्या 20/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-23012/8/94-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2144.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/95) of the Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 5-8-2004.

[No. L-23012/8/94-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH**

16/6/2004

No body has appeared for the parties today.

In following references Viz :

1. I.D. 20/95 Mahinder Singh Vs. BCB Reference No. L-23012/8/94-IR (C.II) dated 8-3-1995
2. I.D. 21/95 Mahabir Singh Vs. BCB Reference No. L-23012/3/94-IR (C.II) dated 8-3-1995
3. I.D. 22/95 Om Parkash, Vs. BCB Reference No. L-23012/2/94-IR (C.II) dated 8-3-1995
4. I.D. 173/94 Bhagwan Dass Vs. BCB Reference No. L-23012/7/94-IR (C.II) dated 17-11-1994

the mater was under the consideration of Hon'ble High Court of Punjab & Haryana in CWP No. 6623 of 1995, which was decided on 14-5-2003. The copy of the Judgement received from the High Court has been kept in the Misc. file of this Tribunal. As per the judgement all the references in these four petitions have been held to be belated and so have been quashed. As a result, these references are not maintainable in the light of the judgement of the Hon'ble High Court. As such they are answered accordingly. Let a copy of this order be sent to the Ministry of Labour for further action.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बी.बी.एम.बी. प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ (संदर्भ संख्या 22/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-23012/2/94-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2145.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/95) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between employers in relation to the management of BBMB and their workman, which was received by the Central Government on 5-8-2004.

[No. L-23012/2/94-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

16/6/2004

No body has appeared for the parties today.

In following references viz :

1. I.D. 20/95, Mahinder Singh Vs. BCB Reference No. L-23012/8/94-IR (CII) dated 8-3-1995
2. I.D. 21/95, Mahabir Singh Vs. BCB Reference No. L-23012/3/94-IR (CII) dated 8-3-1995
3. I.D. 22/95, Om Parkash Vs. BCB Reference No. L-23012/3/94-IR (CII) dated 8-3-1995
4. I.D. 173/94, Bhagwan Dass Vs. BCB Reference No. L-23012/7/94-IR (CII) dated 17-11-1994.

the mater was under the consideration of Hon'ble High Court of Punjab & Haryana in CWP No. 6623 of 1995, which was decided on 14-5-2003. The copy of the Judgement received from the High Court has been kept in the Misc. file of this Tribunal. As per the judgement all the references in these four petitions have been held to be belated and so have been quashed. As a result, these references are not maintainable in the light of the judgement of the Hon'ble High Court. As such they are answered accordingly. Let a copy of this order be sent to the Ministry of Labour for further action.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2146.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बी.बी.एम.बी. प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़

(संदर्भ संख्या 173/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2004 को प्राप्त हुआ था।

[सं० एल-23012/7/94-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 5th August, 2004

S.O. 2146.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 173/94) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 5-8-2004.

[No. L-23012/7/94-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

16/6/2004

No body has appeared for the parties today.

In following references viz :

1. I.D. 20/95, Mahinder Singh Vs. BCB Reference No. L-23012/8/94-IR (CII) dated 8-3-1995
2. I.D. 21/95, Mahabir Singh Vs. BCB Reference No. L-23012/3/94-IR (CII) dated 8-3-1995
3. I.D. 22/95, Om Parkash Vs. BCB Reference No. L-23012/2/94-IR (CII) dated 8-3-1995
4. I.D. 173/94, Bhagwan Dass Vs. BCB Reference No. L-23012/7/94-IR (CII) dated 17-11-1994.

the mater was under the consideration of Hon'ble High Court of Punjab & Haryana in CWP No. 6623 of 1995, which was decided on 14-5-2003. The copy of the judgement received from the High Court has been kept in the Misc. file of this Tribunal. As per the judgement all the references in these four petitions have been held to be belated and so have been quashed. As a result, these references are not maintainable in the light of the judgement of the Hon'ble High Court. As such they are answered accordingly. Let a copy of this order be sent to the Ministry of Labour for further action.

KULDIP SINGH, Presiding Officer